

**HILLSHIRE BRANDS COMPANY REDEVELOPMENT AGREEMENT**  
(Canal/Congress TIF Area)

BY AND BETWEEN

THE CITY OF CHICAGO

AND

THE HILLSHIRE BRANDS COMPANY

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LIST OF EXHIBITS

Exhibit A	Redevelopment Area
Exhibit B	Property; Developer Space
Exhibit C	TIF-Eligible Improvements
Exhibit D#	Redevelopment Plan
Exhibit E#	Construction Contract
Exhibit F	n/a
Exhibit G	[intentionally omitted]
Exhibit H-1	Project Budget
Exhibit H-2	MBE/WBE Budget
Exhibit I#	Approved Prior Expenditures
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Exhibit K	Prior Obligations in Canal/Congress TIF Area
Exhibit L	Jobs Certificate Form
Exhibit M	Requisition Form
Exhibit N#	Form of Payment Bond

# indicates which exhibits will not be included in the ordinance packet

## HILLSHIRE BRANDS COMPANY REDEVELOPMENT AGREEMENT

This Hillshire Brands Company Redevelopment Agreement (this "**Agreement**") is made as of **February 1, 2013** by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Housing and Economic Development ("**HED**"), and The Hillshire Brands Company, a Maryland corporation (the "**Developer**"), formerly known as Sara Lee Corporation.

### RECITALS

**A. Constitutional Authority:** As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "**State**"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

**B. Statutory Authority:** The City is authorized under the provisions of the **Tax Increment Allocation Redevelopment Act**, 65 ILCS 5/11-74.4-1 *et seq.*, as amended from time to time (the "**Act**"), to finance projects that eradicate blighted conditions and conservation area factors through the use of tax increment allocation financing for redevelopment projects.

**C. City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the "**City Council**") enacted three ordinances on November 12, 1998, one approving the Canal/Congress Tax Increment Financing Redevelopment Project and Plan, one creating the Canal/Congress Tax Increment Financing Redevelopment Project Area, and one adopting tax increment allocation financing for said Area (the latter ordinance, the "**TIF Adoption Ordinance**"). The Canal/Congress Tax Increment Financing Redevelopment Project and Plan and the Canal/Congress Tax Increment Financing Redevelopment Project Area were amended by an ordinance enacted June 18, 2002, entitled: "Approval of Amendment Number 1 to Canal/Congress Tax Increment Financing Redevelopment Project and Plan" (all of the above ordinances collectively referred to herein as the "**TIF Ordinances**"). The redevelopment project area referred to above, as amended (the "**Redevelopment Area**"), is legally described in **Exhibit A** hereto.

**D. The Project:** The Developer has entered into an office lease (the "**Lease**") with 400 S. Jefferson (Chicago), LLC (the "**Building Owner**"), the owner of certain property located within the Canal/Congress Redevelopment Project Area located at 400 South Jefferson Street, Chicago (the "**Property**"), which Property is improved with an office building (the "**Building**") operated by the Building Owner. The Developer, formerly known as the Sara Lee Corporation,

after spinning off its current international beverage and related division, intends to relocate its national corporate headquarters to the Property. The Lease commences on or about January 1, 2013, with right of entry to begin on or about July 1, 2012. The Developer is leasing approximately 221,089 rentable square feet of space (the "**Developer Space**") within the Building for an initial period of 15 years (e.g., through December 31, 2027), subject to such early termination rights and renewal rights as are set forth in the Lease (the "**Lease Term**"). The Property and the Developer Space are legally described on **Exhibit B** hereto.

Beginning prior to the issuance of the Certificate (as defined herein), and terminating on the date that is 10 years after the date the City issued the Certificate, the Developer shall maintain its Headquarters (defined herein) at the Developer Space, as set forth in more detail in **Section 8.06** herein.

The Developer shall create a substantial public benefit by employing not fewer than 500 full-time equivalent employees, including all senior executive officers and employees, within the Developer Space during the entire Headquarters Maintenance Compliance Period (as defined in **Section 8.06** herein).

Developer shall undertake substantial tenant improvements necessary to permit the Developer to take possession of the Developer Space in accordance with the terms of the Lease. The rehabilitation of the Developer Space (including but not limited to those TIF-Funded Improvements as defined below and set forth on **Exhibit C**) are collectively referred to herein as the "**Rehabilitation Project**." The Rehabilitation Project and the use of the Developer Space as the Headquarters are collectively referred to herein as the "**Project**." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

The Parties hereby acknowledge that the Lease Term extends beyond the expiration date of the Redevelopment Area.

**E. Redevelopment Plan:** The Project will be carried out in accordance with this Agreement and the City of Chicago Canal/Congress Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "**Redevelopment Plan**") attached hereto as **Exhibit D**.

**F. City Financing:** The City agrees to use, in the amounts set forth in **Section 4.03** hereof, Incremental Taxes (as defined below), to pay for or reimburse the Developer for the costs of TIF-Eligible Improvements pursuant to the terms and conditions of this Agreement.

In addition, the City may, in its discretion, issue tax increment allocation bonds ("**TIF Bonds**") secured by Incremental Taxes pursuant to a TIF bond ordinance (the "**TIF Bond Ordinance**") at a later date as described in **Section 4.03(d)** hereof, the proceeds of which (the

“TIF Bond Proceeds”) may be used to pay for the costs of the TIF-Eligible Improvements not previously paid for from Incremental Taxes.

Now, therefore, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this agreement by reference.

#### SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

“**Act**” shall have the meaning set forth in the Recitals hereof.

“**Actual Residents of the City**” shall mean persons domiciled within the City, as set forth in more detail in **Section 10.02** hereof.

“**Affiliate**” shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Developer.

“**Annual Compliance Report**” shall mean a signed report from the Developer to the City (a) itemizing each of the Developer's obligations under the RDA during the preceding calendar year, (b) certifying the Developer's compliance or noncompliance with such obligations, (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance, and (d) certifying that the Developer is not in default with respect to any provision of the RDA, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the Headquarters Covenant (**Section 8.06**); (2) compliance with the Jobs Covenant (**Section 8.06**); (3) delivery of Financial Statements and unaudited financial statements (**Section 8.13**); (4) delivery of updated insurance certificates, if applicable (**Section 8.14**); (5) delivery of evidence of payment of Non-Governmental Charges, if applicable (**Section 8.15**); (6) delivery of a substitute Letter of Credit, if applicable (**Section 8.20**); (7) delivery of evidence that the LEED Covenant was met (**Section 8.23**) and that LEED Certification has been obtained or, if not obtained, is being vigorously pursued, and (8) compliance with all other executory provisions of the RDA.



**“Available Incremental Taxes”** shall mean, for each payment, an amount equal to (a) 90% of the Incremental Taxes on deposit in the Canal/Congress Redevelopment Project Area TIF Fund as of December 31<sup>st</sup> of the calendar year prior to the year in which the Requisition Form for such payment is received by the City, minus (b) 100% of that portion of the amount of outstanding and committed obligations enumerated in **Exhibit K** hereto that has been paid or is due to be paid for the calendar year prior to the year in which the Requisition Form for such payment is received by the City.

**“Building”** shall have the meaning set forth in the Recitals hereof.

**“Building Owner”** shall have the meaning set forth in the Recitals hereof.

**“Canal/Congress TIF Fund”** shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited..

**“Certificate”** shall mean the Certificate of Completion of Rehabilitation described in **Section 7.01** hereof.

**“Change Order”** shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in **Section 3.03**, **Section 3.04** and **Section 3.05**, respectively.

**“City Council”** shall have the meaning set forth in the Recitals hereof.

**“City Funds”** shall mean the funds described in **Section 4.03(b)** hereof.

**“Closing Date”** shall mean the date of execution and delivery of this Agreement by all parties hereto, which shall be deemed to be the date appearing in the first paragraph of this Agreement.

**“Construction Contract”** shall mean that certain contract, substantially in the form attached hereto as **Exhibit E**, entered into between the Developer and the General Contractor providing for construction of the Project.

**“Corporation Counsel”** shall mean the City's Office of Corporation Counsel.

**“Developer”** shall have the meaning set forth in the Recitals hereof.

**“Developer Cure Period”** shall have the meaning set forth in **Section 8.06** hereof.

**“Developer Space”** shall have the meaning set forth in the Recitals hereof.

**“Employer(s)”** shall have the meaning set forth in **Section 10** hereof.

**“Environmental Laws”** shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called **“Superfund”** or **“Superlien”** law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago.

**“Equity”** shall mean funds of the Developer (other than funds derived from Lender Financing) irrevocably available for the Project and unencumbered by any other obligation, in the amount set forth in **Section 4.01** hereof, which amount may be increased pursuant to **Section 4.06** (Cost Overruns).

**“Event of Default”** shall have the meaning set forth in **Section 15** hereof.

**“Final Payment”** shall have the meaning set forth in **Section 4.03(c)** hereof.

**“Financial Statements”** shall mean complete audited financial statements of the Developer prepared by a certified public accountant in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods.

**“First Additional Jobs Covenant”** shall have the meaning set forth in **Section 8.06** hereof.

**“First Additional Jobs Maintenance Compliance Period”** shall have the meaning set forth in **Section 8.06** hereof.

**“Full-Time Equivalent Employee”** or **“FTE”** shall mean a permanent full-time position of the Developer (or, with respect to job shares or similar work arrangements, such employees taken collectively) that requires work hours totaling at least 35 hours per week and 1750 work hours per year, and that is based in the Developer Space during the applicable month. FTE shall not include persons employed as independent contractors, third party service providers or consultants. FTE shall also not include persons employed by the Developer, an Affiliate or third

parties in positions ancillary to the Developer's operations such as food service workers, security guards, cleaning personnel, or similar positions.

**"General Contractor"** shall mean the general contractor(s) hired by the Developer pursuant to **Section 6.01**.

**"Headquarters"** shall mean that the Developer Space is the sole national corporate office location of all executive offices and operations of (a) the Developer or (b) any assignee of Developer or successor mortgagee of the Developer Space that has received the express prior written consent of the City, and therefore that the Developer Space is the primary office location of, at minimum, the following executive positions and titles: the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer, the President, the General Counsel, the Corporate Secretary, and similar senior positions of the Developer. In the event that the Developer, or substantially all of the assets of Developer, is acquired by another entity during the Term of this Agreement, the term "Headquarters" shall also mean the primary office location for an operational division of the acquiring entity.

**"Headquarters Maintenance Compliance Period"** shall have the meaning set forth in **Section 8.06** hereof.

**"Incremental Taxes"** shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the Canal/Congress Special Tax Allocation Fund for the Redevelopment Area established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

**"Jobs Certificate"** shall mean the Jobs Certificate attached hereto as **Exhibit L**.

**"Jobs Maintenance Compliance Period"** shall have the meaning set forth in **Section 8.06** hereof.

**"Lease"** shall have the meaning set forth in the Recitals hereof.

**"Lease Term"** shall have the meaning set forth in the Recitals hereof.

**"LEED Certification"** shall mean a Commercial Interiors Certified certification, Edition 2009 version 2.0 (November 2011) under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System maintained by the U.S. Green Building Council, for the Developer Space as a whole.

**"LEED Covenant"** shall have the meaning set forth in **Section 8.23** hereof.

**“Lender Financing”** shall mean funds borrowed by the Developer from lenders and dedicated, with no contingencies thereon, for the purpose of paying for the Costs of the Project, in the amount set forth in **Section 4.01** hereof.

**“Letter of Credit”** shall mean the initial irrevocable, standby transferable Letter of Credit naming the City as the sole beneficiary in the amount specified in **Section 8.20** and delivered to the City pursuant to **Section 8.20** hereof, and, unless the context or use indicates another or different meaning or intent, any substitute Letter of Credit delivered to the City, in form and substance satisfactory to the City in its sole and absolute discretion, and any extensions thereof.

**“MBE(s)”** shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a minority-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

**“MBE/WBE Budget”** shall mean the budget attached hereto as **Exhibit H-2**, as described in **Section 10.03**.

**“Material Amendment”** shall mean an amendment (other than as described in the last sentence of this paragraph) of the Lease the net effect of which is to directly or indirectly do any of the following: shorten the initial 15-year term of the Lease or grant additional early termination rights that, if exercised, would shorten the initial 15-year term of the Lease so that the Lease term will terminate during the Term of this Agreement (other than those termination rights already set forth in the Lease). Reductions or expansions of space shall not constitute Material Amendments.

**“Minimum Jobs Covenant”** shall have the meaning set forth in **Section 8.06** hereof.

**“Municipal Code”** shall mean the Municipal Code of the City of Chicago.

**“Non-Governmental Charges”** shall mean all non-governmental charges, liens, claims, or encumbrances relating to the Developer, the Building or the Project.

**“Plans and Specifications”** shall mean final construction documents containing a site plan and working drawings and specifications for the Rehabilitation Project, as submitted to the City as the basis for obtaining building permits for the Rehabilitation Project.

**“Prior Expenditure(s)”** shall have the meaning set forth in **Section 4.05(a)** hereof.

**“Project”** shall have the meaning set forth in the Recitals hereof.

“**Project Budget**” shall mean the budget attached hereto as **Exhibit H-1**, showing the total cost of the Project by line item, furnished by the Developer to HED, in accordance with **Section 3.03** hereof.

“**Property**” shall have the meaning set forth in the Recitals hereof.

“**Redevelopment Area**” shall have the meaning set forth in the Recitals hereof.

“**Redevelopment Plan**” shall have the meaning set forth in the Recitals hereof.

“**Redevelopment Project Costs**” shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

“**Rehabilitation Project**” shall have the meaning set forth in the Recitals hereof.

“**Requisition Form**” shall mean the document, in the form attached hereto as **Exhibit M**, to be delivered by the Developer to HED pursuant to **Section 4.04** of this Agreement.

“**Scope Drawings**” shall mean preliminary construction documents containing a site plan and preliminary drawings and specifications for the Rehabilitation Project.

“**Second Additional Jobs Covenant**” shall have the meaning set forth in **Section 8.06** hereof.

“**Second Additional Jobs Maintenance Compliance Period**” shall have the meaning set forth in **Section 8.06** hereof.

“**Term of the Agreement**” shall mean the period of time commencing on the Closing Date and ending on the later of (a) the termination of the Headquarters Maintenance Compliance Period, or (b) the date on which the Redevelopment Area is no longer in effect (through and including December 31, 2030).

“**TIF Adoption Ordinance**” shall have the meaning set forth in the Recitals hereof.

“**TIF Bonds**” shall have the meaning set forth in the Recitals hereof.

“**TIF Bond Ordinance**” shall have the meaning set forth in the Recitals hereof.

“**TIF-Eligible Improvements**” shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and

(iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. **Exhibit C** lists the TIF-Eligible Improvements for the Project.

**“TIF Ordinances”** shall have the meaning set forth in the Recitals hereof.

**“WARN Act”** shall mean the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

**“WBE(s)”** shall mean a business identified in the Directory of Certified Women Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a women-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

### SECTION 3. THE PROJECT

**3.01 The Project.** With respect to the Rehabilitation Project, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.17** hereof: (i) commence construction of the Project not later than July 1, 2012; and (ii) complete construction and conduct business operations within the Project site not later than January 1, 2013.

**3.02 Scope Drawings and Plans and Specifications.** The Developer has delivered the Scope Drawings and Plans and Specifications to HED and HED has approved same. After such initial approval, subsequent proposed changes hereof to the Scope Drawings or Plans and Specifications which require the City's approval under Section 3.04 shall be submitted to HED as a Change Order pursuant to **Section 3.04** hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

**3.03 Project Budget.** The Developer has furnished to HED, and HED has approved, a Project Budget showing total costs for the Project in an amount **not less than \$30,142,963**. The Developer hereby certifies to the City that (a) the City Funds, together with Lender Financing and Equity described in **Section 4.02** hereof, shall be sufficient to complete the Rehabilitation Project. The Developer hereby certifies to the City that (a) it has Lender Financing and Equity and a tenant improvement allowance in an amount sufficient to pay for all Rehabilitation Project costs; and (b) the Project Budget is true, correct and complete in all material respects.

**3.04 Change Orders.** Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material

changes to the Rehabilitation Project must be submitted by the Developer to HED concurrently with the progress reports described in **Section 3.07** hereof; provided, however, that any Change Order relating to any of the following must be submitted by the Developer to HED for HED's prior written approval: (a) a change in the use of the Developer Space to any use other than as the Headquarters for the Developer; or (b) a delay in the completion of the Project exceeding six months. The Developer shall not authorize or permit the performance of any work relating to any Change Order requiring the City's approval hereunder or the furnishing of materials in connection therewith prior to the receipt by the Developer of HED's written approval (to the extent required in this Agreement). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. Notwithstanding anything to the contrary in this **Section 3.04**, Change Orders other than those set forth above do not require HED's prior written approval as set forth in this **Section 3.04**, but HED shall be notified in writing of all such Change Orders prior to the implementation thereof and the Developer, in connection with such notice, shall identify to HED the source of funding therefor.

**3.05 HED Approval.** Any approval granted by HED of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by HED pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Rehabilitation Project.

**3.06 Other Approvals.** Any HED approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of **Section 5.03** (Other Governmental Approvals) hereof. The Developer shall not commence construction of the Project until the Developer has obtained all necessary permits and approvals (including but not limited to HED's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

**3.07 Progress Reports.** The Developer shall provide HED with written quarterly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring HED's written approval pursuant to **Section 3.04**).

**3.08 Inspecting Agent or Architect.** [intentionally omitted]

**3.09 Barricades.** [intentionally omitted]

**3.10 Public Relations.** The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer and the Project in the City's promotional literature and communications. The City will in good faith attempt to give Developer an opportunity to comment on such proposed literature or communications.

**3.11 Utility Connections.** [intentionally omitted]

**3.12 Permit Fees.** In connection with the Rehabilitation Project, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

#### SECTION 4. FINANCING

**4.01 Total Project Cost and Sources of Funds.** The cost of the Rehabilitation Project is estimated to be **\$30,142,963**, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity, Lender Financing or tenant improvement allowance (subject to <b>Sections 4.03(b) and 4.06</b> )	\$30,142,963
<b>ESTIMATED TOTAL</b>	<b>\$30,142,963</b>

**4.02 Developer Funds.** Equity, tenant improvement allowance and/or Lender Financing shall be used to pay any Rehabilitation Project costs, including but not limited to Redevelopment Project costs and costs of TIF-Eligible Improvements.

**4.03 City Funds.**

(a) **Uses of City Funds.** City Funds may only be used to reimburse the Developer for costs of TIF-Eligible Improvements that constitute Redevelopment Project Costs (e.g., primarily for interior office space build-out construction and rehabilitation costs). **Exhibit C** sets forth, by line item, the TIF-Eligible Improvements for the Rehabilitation Project, and the maximum amount of costs that may be reimbursed from City Funds for each line item therein (subject to **Section 4.03(b)**), contingent upon receipt by the City of documentation satisfactory in form and substance to HED evidencing such cost and its eligibility as a Redevelopment Project Cost. City Funds shall not be paid to the Developer hereunder prior to the issuance of a Certificate.

(b) **Source and Amount of City Funds.** Subject to the terms and conditions of this Agreement, including but not limited to this **Section 4.03** and **Section 5** hereof, the City hereby



agrees to provide City funds from the source and in the maximum amount described directly below (the "City Funds") to pay for or reimburse the Developer for the costs of the TIF-Eligible Improvements:

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Available Incremental Taxes and/or TIF Bond Proceeds	\$6,500,000

provided however, that if actual total Project costs are less than \$24,114,370, then the Maximum Amount of City Funds provided under this Redevelopment Agreement shall be reduced by 50 cents for every one dollar reduction in total Project costs below \$24,114,370; and provided further, however, that the \$6,500,000 to be derived from Available Incremental Taxes and/or TIF Bond proceeds, if any, shall be available to pay costs related to TIF-Eligible Improvements and allocated by the City for that purpose only so long as the amount of the Available Incremental Taxes deposited into the Canal/Congress TIF Fund shall be sufficient to pay for such costs.

(c) Disbursements of City Funds. Subject to reductions in amounts pursuant to the operation of other portions of this Agreement, the City shall commence paying City Funds, in lump sum amounts, to Developer as reimbursement for any TIF-Eligible Improvements, pursuant to the following schedule; provided, however, that each payment of City Funds is expressly contingent upon HED having first received, along with the Requisition Form, documentation satisfactory in form and substance to HED (including Developer's filing of a Jobs Certificate) evidencing Developer's compliance with the applicable Headquarters and jobs covenants then due, as set forth in Section 8.06 hereof.

<b>Date of Payment:</b>	<b>Maximum Amount of Each Payment, Special Conditions on Certain Payments:</b>
<i>First Payment:</i> First day of the first month following the <i>first</i> anniversary of the issuance of the Certificate	<i>one of the following amounts</i> , depending on whether certain Special Conditions have been met: – \$1,000,000 if the LEED Covenant is acknowledged in the Certificate as having been met; – \$750,000 if the LEED Covenant is <i>not</i> acknowledged in the Certificate as having been met
<i>Second Payment:</i> First day of the first month following the <i>second</i> anniversary of the issuance	\$1,000,000

of the Certificate	
<i>Third Payment:</i> First day of the first month following the <i>third</i> anniversary of the issuance of the Certificate	\$1,000,000
<i>Fourth Payment:</i> First day of the first month following the <i>fourth</i> anniversary of the issuance of the Certificate	\$1,000,000
<i>Fifth Payment:</i> First day of the first month following the <i>fifth</i> anniversary of the issuance of the Certificate	\$1,000,000
<i>Sixth Payment:</i> First day of the month following the <i>sixth</i> anniversary of the issuance of the Certificate	One or both of the Additional Payments (described below) in the event the First and/or Second Additional Jobs Covenants have been met between the date of the Fifth and Sixth Payment
<i>Additional Payments.</i> On any of the First through Sixth Payment dates	\$750,000 if Developer has met the First Additional Jobs Covenant in the preceding year. \$750,000 if Developer has met the Second Additional Jobs Covenant in the preceding year. \$1,500,000 if Developer has met the First and Second Additional Jobs Covenant in the preceding year.

*Example: If the Certificate is issued on April 15, 2013, then the first payment to be made pursuant to the table above shall be made on May 1, 2014.*

The date of the final payment from the City to Developer hereunder is hereinafter referred to as the “**Final Payment.**”

**4.04 Requisition Form.** Developer shall not file a Requisition Form until at least nine months after the issuance of the Certificate. Thereafter, in order to request each disbursement of the City Funds, the Developer shall provide HED with a Requisition Form, along with the documentation described therein, not later than 60 days prior to the corresponding Date of Payment set forth in Section 4.03(c) above.

#### **4.05 Treatment of Prior Expenditures; Allocations.**

(a) **Prior Expenditures.** Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, if any, and evidenced by documentation satisfactory to HED and approved by HED as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "**Prior Expenditures**"). HED shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. **Exhibit I** hereto sets forth the prior expenditures approved by HED as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than TIF-Eligible Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to **Section 4.01** hereof.

(b) **Allocation Among Line Items.** Disbursements for expenditures related to TIF-Eligible Improvements may be allocated to and charged against the appropriate line in **Exhibit C** only, with transfers of costs and expenses from one line item to another requiring the prior written consent of HED; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of HED; and further provided that any amounts budgeted as contingency may be transferred to any line item without consent..

**4.06 Cost Overruns.** If the aggregate cost of the TIF-Eligible Improvements exceeds City Funds available pursuant to **Section 4.03** hereof, or if the cost of completing the Rehabilitation Project exceeds the Project Budget, the Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Eligible Improvements in excess of City Funds and of completing the Rehabilitation Project.

**4.07 Conditional Grant.** The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement.

**4.08 Cost of Issuance.** The Developer shall be responsible for paying all costs relating to the opinion described in **Section 5.09** hereof.

#### **SECTION 5. CONDITIONS PRECEDENT**

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

**5.01 Project Budget.** The Developer has submitted to HED, and HED has approved, a Project Budget in accordance with the provisions of **Section 3.03** hereof.

**5.02 Scope Drawings and Plans and Specifications.** The Developer has submitted to HED, and HED previously has approved pursuant to **Section 3.02**, the Scope Drawings and Plans and Specifications in accordance with the provisions of **Section 3.02** hereof.

**5.03 Other Governmental Approvals.** The Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to HED.

**5.04 Financing.** The Developer has furnished proof reasonably acceptable to the City that the Developer has Equity and Lender Financing and other sources of funds in the amounts set forth in **Section 4.01** hereof to complete the Rehabilitation Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with the other sources set forth in **Section 4.01**) to complete the Rehabilitation Project. The Developer has delivered to HED a copy of the construction escrow agreement entered into by the Developer regarding the Lender Financing, if any.

**5.05 Acquisition and Title.** [intentionally omitted]

**5.06 Evidence of Clean Title.** The Developer, at its own expense, has provided the City with searches under the Developer's name, as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search
Cook County Recorder	Fixtures search
Cook County Recorder	Federal tax search
Cook County Recorder	State tax search
Cook County Recorder	Memoranda of judgments search
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

showing no liens against the Developer, the Developer Space or any fixtures now or hereafter affixed thereto which would materially interfere with Developer's ability to complete the Project.

**5.07 Surveys.** [intentionally omitted]

**5.08 Insurance.** The Developer, at its own expense, has insured the Developer Space in accordance with **Section 12** hereof, and has delivered certificates required pursuant to **Section 12** hereof evidencing the required coverages to HED.

**5.09 Opinion of the Developer's Counsel.** On the Closing Date, the Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as **Exhibit J**, with such changes as required by or acceptable to Corporation Counsel. If the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in **Exhibit J** hereto, such opinions were obtained by the Developer from its general corporate counsel.

**5.10 Evidence of Prior Expenditures.** The Developer has provided evidence satisfactory to HED in its sole discretion of the Prior Expenditures, if any, in accordance with the provisions of **Section 4.05(a)** hereof.

**5.11 Financial Statements.** The Developer has provided Financial Statements to HED for its most recent fiscal year, and Developer's Form 10 Q Quarterly Report as most recently filed with the United States Securities and Exchange Commission and the two prior fiscal years thereto.

**5.12 Documentation.** The Developer shall have provided evidence satisfactory to HED, in its sole discretion, with respect to its ability to satisfy MBE/WBE and City resident employment standards. Such documentation shall include, without limitation, an MBE/WBE utilization plan, including Schedules C and D, and evidence of the General Contractors having met with, and having provided bid documents to, applicable MBE/WBE contractors and subcontractors.

**5.13 Environmental.** [intentionally omitted]

**5.14 Corporate Documents; Economic Disclosure Statement.** The Developer has provided a copy of its Articles of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and of Illinois, and the Developer hereby affirms that, as of the date hereof, it is in good standing with the relevant state agency of all other states in which the Developer is qualified to do business; secretary's certificates in such form and substance as the Corporation Counsel may require; by-laws of the corporation; and such other corporate documentation as the City has requested. Developer has provided to the City an Economic Disclosure Statement, in the City's then current form, dated as of the Closing Date.

**5.15 Litigation.** The Developer has provided to Corporation Counsel and HED a description of all pending or threatened litigation or administrative proceedings involving the Developer as follows: (a) that Developer is otherwise required to publicly disclose, (b) that may

affect the ability of Developer to perform its duties and obligations undertaken pursuant to this Agreement, (c) to which the City is a party, and (d) that involve the payment or non-payment of franchise, income, sales or other taxes to the State of Illinois, specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

**5.16 Leases.** The Developer shall have delivered to HED a complete copy of the executed Lease, a completed copy of all other written agreements setting forth the Developer's and Building's understandings relating to the Developer's relocation to or occupancy of the Developer Space, and any financial agreements between the Developer and the Building (whether written or not) in any way relating to the Developer Space or the Lease.

## SECTION 6. AGREEMENTS WITH CONTRACTORS

**6.01 Bid Requirement for General Contractor and Subcontractors.** The Developer has entered into an agreement with Clune Construction Company, L.P. as its General Contractor for construction of the Rehabilitation Project. The Developer hereby covenants that it shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with the City of Chicago, and shall submit a summary of all General Contractor's bids received (a "**Bid Summary**") to HED for its inspection and written approval, which shall not be unreasonably withheld and which shall be given or denied in writing within 10 business days from receipt by HED. Each Bid Summary shall include the name of the contractor, the nature of the work, the price, the reason for selecting the successful bidder, a summary of the subcontracts comprising the General Contractor's bid, and other information as HED may request from time to time. For the TIF-Eligible Improvements, the Developer shall cause the General Contractor to select the subcontractors submitting the lowest responsible bids that can complete the Rehabilitation Project in a timely manner. If the General Contractor selects any subcontractor submitting other than the lowest responsible bid for the TIF-Eligible Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. The Developer shall submit copies of the Construction Contract to HED in accordance with **Section 6.02** below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Eligible Improvements shall be provided to HED within ten (10) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Rehabilitation Project until the Plans and Specifications have been approved by HED and all requisite permits have been obtained.

**6.02 Construction Contract.** The Developer has delivered to HED a copy of the Construction Contract with the General Contractor selected to handle the Rehabilitation Project in accordance with **Section 6.01** above, and HED has approved same.

**6.03 Performance and Payment Bonds.** Prior to the commencement of any portion of the Project which includes work on the public way, the Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in the form attached as **Exhibit N** hereto. The City shall be named as obligee or co-obligee on any such bonds.

**6.04 Employment Opportunity.** The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of **Section 10** hereof; provided, however, that the contracting, hiring and testing requirements for the MBE/WBE and City Residency obligations in **Section 10** shall be applied on an aggregate basis as to the applicable portions of the entire Rehabilitation Project and the failure of the General Contractor to require each subcontractor to satisfy, or the failure of any one subcontractor to satisfy, such obligations shall not result in a default under or termination of this Agreement or require the payment of the City resident hiring shortfall amount so long as such **Section 10** obligations are satisfied on an aggregate basis for the entire Rehabilitation Project.

**6.05 Other Provisions.** In addition to the requirements of this **Section 6**, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to **Section 3.04** (Change Orders), **Section 8.09** (Prevailing Wage), **Section 10.01(e)** (Employment Opportunity), **Section 10.02** (City Resident Employment Requirement), **Section 10.03** (MBE/WBE Requirements, as applicable), **Section 12** (Insurance) and **Section 14.01** (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Eligible Improvements shall be provided to HED within five (5) business days of the a written request from HED therefore.

## SECTION 7. COMPLETION OF CONSTRUCTION

**7.01 Certificate of Completion of Construction.** Upon proof provided to HED's satisfaction:

- (i) that the Developer Space has been completed in accordance with the terms of this Agreement;
- (ii) that the Developer has accurately stated the actual total Project costs it has expended on the Rehabilitation Project;
- (iii) that Developer holds a valid certificate of occupancy for the Developer Space;
- (iv) that Headquarters operations has been established by the Developer in the Developer Space in accordance with the terms of this Agreement;

(v) that the Developer met or exceeded the MBE, WBE, prevailing wage and City residency requirements of this Agreement for the Rehabilitation Project;

(vi) that at least 500 FTEs are employed at the Developer Space pursuant to the Minimum Jobs Covenant and demonstrated by the filing of a Jobs Certificate with HED;

(vii) that the Developer has incurred sufficient TIF-Eligible Improvements to meet or exceed the First Payment of City Funds contemplated by this Agreement (e.g., \$1,000,000);

(viii) that Developer has provided cancelled checks and lien waivers, or the General Contractors' final sworn statement and final lien waiver and invoice, for all amounts referenced in subsections (i), (v) and (vii) above;

(ix) that Developer has provided a written statement of its commitment to timely commence the job readiness program with the Workforce Solutions Unit required under **Section 8.24** hereof; and

(x) upon the Developer's written request,

then HED shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Rehabilitation Project in accordance with the terms of this Agreement. HED shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

**7.02 Effect of Issuance of Certificate; Continuing Obligations.** The Certificate relates only to the construction of the Rehabilitation Project and, upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to **Section 18.15** of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.



Those covenants specifically described at **Sections 8.02, 8.06 and 8.19** as covenants that run with the leasehold interest in the Developer Space are the only covenants in this Agreement intended to be binding upon any transferee of the Developer Space (including an assignee as described in the following sentence) throughout the Term of the agreement notwithstanding the issuance of a Certificate; provided, that upon the issuance of a Certificate, the covenants set forth in **Section 8.02** shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to **Section 18.15** of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

**7.03 Failure to Complete.** If the Developer fails to complete the Rehabilitation Project in accordance with the terms of this Agreement, then the City has, but shall not be limited to, the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto; draw down the entire amount of the Letter of Credit, if issued (but only to the extent that City Funds have been disbursed to Developer as of that time); and the right to seek reimbursement of the City Funds from the Developer, provided that the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status of any TIF Bonds then outstanding.

**7.04 Notice of Expiration of Term of Agreement.** Upon the expiration of the Term of the Agreement, HED shall provide the Developer, at the Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired.

## **SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER.**

**8.01 General.** The Developer represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) Developer is a Maryland corporation duly organized, validly existing, qualified to do business in its state of incorporation/organization and in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its Articles of Incorporation or by-laws as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or

document to which the Developer is now a party or by which the Developer is now or may become bound;

(d) the Developer remains bound by the Lease and is not in material breach of any portion of it;

(e) Developer is now and for the Term of the Agreement shall remain solvent and able to pay its debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Developer which would impair its ability to perform under this Agreement;

(g) the Developer has and shall maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project;

(h) the Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer is a party or by which the Developer is bound that would materially interfere with Developer's ability to complete the Project;

(i) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of the Developer, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the Developer since the date of the Developer's most recent Financial Statements;

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of HED: (1) be a party to any merger, liquidation or consolidation which causes Developer (or its successor) to be unable to maintain a Headquarters in the Developer Space; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Developer Space (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of the Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity to the extent that such action would have an adverse effect on Developer's ability to perform its obligation under this Agreement; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition;

(k) [intentionally omitted]

(l) has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("**City Contract**") as an inducement for the City to enter into the Agreement or any City Contract with the Developer in violation of Chapter 2-156-120 of the Municipal Code of the City; and

(m) neither the Developer nor any affiliate of the Developer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For purposes of this subparagraph (m) only, the term "affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

**8.02 Covenant to Redevelop.** Upon HED's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in **Sections 3.02** and **3.03** hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop, rehabilitate and build out the Developer Space in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances (including zoning ordinances), rules, regulations, executive orders and codes applicable to the Project, the Developer Space and/or the Developer.

**8.03 Redevelopment Plan.** The Developer represents that the Project is and shall be in substantial compliance with all of the terms of the Redevelopment Plan.

**8.04 Use of City Funds.** City Funds disbursed to the Developer shall be used by the Developer solely to pay for (or to reimburse the Developer for its payment for) the TIF-Eligible Improvements as provided in this Agreement.

**8.05 Other Bonds.** The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any additional bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Eligible Improvements ("**Other Bonds**"); provided, however, that any such amendments shall not have a material adverse effect

on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Other Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto.

**8.06 Job Creation and Retention; Covenant to Keep Headquarters in the City.**

(a) Developer shall cause to be created, maintained and located at the Developer Space, not later than the dates set forth herein, the following:

(i) prior to the issuance of the Certificate: create and/or relocate a net total of 500 FTEs at the Developer Space (the "**Minimum Jobs Covenant**");

(ii) beginning prior to the issuance of the Certificate, and terminating on the date that is 10 years after the date the City issued the Certificate (the "**Jobs Maintenance Compliance Period**"): show evidence to the City once annually that not fewer than 95% of 500 FTEs (e.g., not fewer than 475 FTEs) are located at the Developer Space; and

(iii) beginning prior to the issuance of the Certificate, and terminating on the date that is 10 years after the date the City issued the Certificate (the "**Headquarters Maintenance Compliance Period**"), the Developer shall maintain its sole Headquarters at the Developer Space.

(b) Developer may, at its option, and in order to qualify the Additional Payments, cause to be created, maintained and located at the Developer Space, not later than the dates set forth herein, the following:

(i) prior to the date of the sixth anniversary of the issuance of the Certificate: create and/or relocate, at the Developer Space, a net total of 75 FTEs in addition to the Minimum Jobs Covenant, of which additional FTEs at least 51% are Actual Residents of the City (as such term is defined in **Section 10.02** hereof) or, if less than 51% of such FTEs are Actual Residents of the City, that the Developer has made a good faith effort at hiring Actual Residents of the City at the time they are hired (the "**First Additional Jobs Covenant**");

(ii) prior to the date of the sixth anniversary of the issuance of the Certificate: create and/or relocate, at the Developer Space, a net total of 75 FTEs in addition to the sum of (a) the Minimum Jobs Covenant plus (b) the First Additional Jobs Covenant, of which additional FTEs at least 51% are Actual Residents of the City or, if less than 51% of such FTEs are Actual Residents of the City, that the Developer has made a good faith effort at

hiring Actual Residents of the City at the time they are hired (the “**Second Additional Jobs Covenant**”).

If Developer meets the First Additional Jobs Covenant, then, beginning at that time and terminating on the date that is 10 years after the date the City issued the Certificate (the “**First Additional Jobs Maintenance Compliance Period**”), Developer shall show evidence to the City once annually that not fewer than 95% of 575 FTEs (e.g., not fewer than 547 FTEs) are located at the Developer Space.

If Developer meets the Second Additional Jobs Covenant, then, beginning at that time and terminating on the date that is 10 years after the date the City issued the Certificate (the “**Second Additional Jobs Maintenance Compliance Period**”), Developer shall show evidence to the City once annually that not fewer than 95% of 650 FTEs (e.g., not fewer than 618 FTEs) are located at the Developer Space.

(c) The Developer shall file a Jobs Certificate, in the form set forth on **Exhibit L** hereto, with HED on or before the first day of the month that is one full month after completion of the Rehabilitation Project (but no earlier than February 1, 2013) and on each anniversary of that date thereafter for the Term of the Agreement (in conjunction with the Annual Compliance Report to be filed with HED on the same dates, as set forth in **Section 8.25** hereof), certifying to its compliance with the relevant provisions of this **Section 8.06** for the prior calendar year. Each Jobs Certificate filed with the City shall list the job titles of the 10 highest-paid FTEs whose primary offices are located at the Developer Space. By way of example, if the Rehabilitation Project is completed on January 27, 2013, the initial Jobs Certificate shall be due by Developer on or before March 1, 2013.

(d) The Developer shall be entitled to two, one-year cure periods (each a “**Developer Cure Period**”) during the Jobs Maintenance Compliance Period that cannot be consecutive years, provided, however, that if the cure period arises from a default under subsection (a)(i) hereof, the City shall not be obligated to issue the Certificate until such default is cured to the satisfaction of the City. Any year during which the Developer cures a Jobs Maintenance Compliance Period default shall not count toward the required 10 years of compliance or any other obligation of the Developer under the Agreement.

(e) The parties agree that, notwithstanding any language in this Agreement to the contrary, there shall be no cure period for a default of the Headquarters Maintenance Compliance Period.

**8.07 Employment Opportunity; Progress Reports.** The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in **Section 10** hereof. The Developer shall deliver to the City written progress reports detailing compliance with the

requirements of **Sections 8.09, 10.02 and 10.03** of this Agreement. Such reports shall be delivered to the City monthly until the Rehabilitation Project is fully completed. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to HED which shall outline, to HED's satisfaction, the manner in which the Developer shall correct any shortfall.

**8.08** [intentionally omitted]

**8.09 Prevailing Wage.** The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "**Department**"), to all Rehabilitation Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this **Section 8.09.**

**8.10 Arms-Length Transactions.** Unless HED has given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Eligible Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon HED's request, prior to any such disbursement.

**8.11 Conflict of Interest.** Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or the Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Developer Space. The ownership of publicly-traded shares of stock in the Developer is exempt from the representations, warranties and covenants of this sub-section 8.11.

**8.12 Disclosure of Interest.** The Developer's counsel has no direct or indirect financial ownership interest in any of the Developer, the Developer Space or any other aspect of the Project.

**8.13 Financial Statements.** The Developer shall obtain and provide to HED Financial Statements for the Developer's fiscal year ended 2011 and for each fiscal year thereafter for the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements

as soon as reasonably practical following the close of each fiscal year and for such other periods as HED may request.

**8.14 Insurance.** The Developer, at its own expense, shall comply with all provisions of **Section 12** hereof.

**8.15 Non-Governmental Charges.**

(a) **Payment of Non-Governmental Charges.** The Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Developer Space or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Developer Space or Project; provided however, that if such Non-Governmental Charge may be paid in installments, the Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer shall furnish to HED, within thirty (30) days of HED's request, official receipts from the appropriate entity, or other proof satisfactory to HED, evidencing payment of the Non-Governmental Charge in question.

(b) **Right to Contest.** The Developer has the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Developer Space (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this **Section 8.15**); or

(ii) at HED's sole option, to furnish a good and sufficient bond or other security satisfactory to HED in such form and amounts as HED shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Developer Space or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

**8.16 Developer's Liabilities.** The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities or perform any material obligations of the Developer to any other person or entity. The Developer shall immediately notify HED of any and all events or actions which

may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

**8.17 Compliance with Laws.** To the best of the Developer's knowledge, after diligent inquiry, the Developer Space and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Developer Space. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

**8.18** [intentionally omitted]

**8.19 Real Estate Provisions.**

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Developer Space or the Project, or become due and payable, and which create or may create a lien upon the Developer or all or any portion of the Developer Space or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, the Developer Space or the Project including but not limited to real estate taxes.

(ii) Right to Contest. Except for real estate taxes (of which the right to challenge is limited as provided for in Section 8.19(c) below), the Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Developer Space. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to HED of the Developer's intent to contest or object to a Governmental Charge and, unless, at HED's sole option,

(A) the Developer shall demonstrate to HED's satisfaction that legal proceedings instituted by the Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or



forfeiture of, all or any part of the Developer Space to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

(B) the Developer shall furnish a good and sufficient bond or other security satisfactory to HED in such form and amounts as HED shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Developer Space during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) Developer's Failure To Pay Or Discharge Lien. If the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise HED thereof in writing, at which time HED may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in HED's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which HED deems advisable. All sums so paid by HED, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to HED by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

(c) Real Estate Taxes.

(i) Real Estate Tax Exemption. With respect to the Developer Space or the Project, neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, seek, request the Building Owner to seek, or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970)) for any year that the Redevelopment Plan is in effect.

(ii) No Reduction in Real Estate Taxes. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, directly or indirectly, initiate, seek, request the Building Owner to seek, or apply for proceedings in order to lower the assessed value of all or any portion of the Developer Space or the Project.

(iii) No Objections. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer, shall object to or in any way seek to interfere with, or request that the Building Owner object to or interfere with, on procedural or any other grounds, the filing of any underassessment complaint or

subsequent proceedings related thereto with the Cook County Assessor or with the Cook County Board of Appeals, by either the City or any taxpayer.

(iv) Covenants Affecting the Developer Space. The parties agree that the restrictions contained in this **Section 8.19(c)** are covenants affecting the Developer Space. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof. The Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Developer Space from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this **Section 8.19(c)** to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this **Section 8.19(c)**.

**8.20 Letter of Credit Covenant.** To enhance the City's security with respect to the Headquarters Covenant, the Jobs Covenant, the Real Estate Taxes Covenant and other performance obligations of the Developer or its successor under this Agreement, the Developer and any successor to the Developer is required to deliver to the City an initial Letter of Credit simultaneous with the Developer's delivery to the City of the initial Requisition Form. Thereafter, and simultaneous with the Developer's delivery to the City of each subsequent Requisition Form, the Developer and its successor shall deliver to the City a substitute, replacement or amended Letter of Credit. In each case, the amount of the Letter of Credit delivered to the City shall be equal to the sum of (i) the aggregate amount of City Funds previously paid to Developer, plus (ii) the amount of additional City Funds scheduled to be paid to Developer pursuant to that Requisition Form. Each Letter of Credit shall expire on the fifth anniversary of the date of the Final Payment.

Notwithstanding anything in the prior paragraph to the contrary, the amount of the Letter of Credit may be reduced by the Developer, for the remainder of the term of the Letter of Credit, according to the following schedule; provided, however, that this schedule, or any part if it, may be extended for up to two years in the sole discretion of the City arising from the Developer invoking either or both of the Developer Cure Periods set forth in **Section 8.06(d)** hereof.

<b>Date, unless extended by the City pursuant to the Developer Cure Period proviso above:</b>	<b>Maximum Amount of the Letter of Credit:</b>
on the first anniversary of the date of the Final Payment	80% of the aggregate amount of City Funds previously paid to Developer
on the second anniversary of the date of the Final Payment	60% of the aggregate amount of City Funds previously paid to Developer

on the third anniversary of the date of the Final Payment	40% of the aggregate amount of City Funds previously paid to Developer
on the fourth anniversary of the date of the Final Payment	20% of the aggregate amount of City Funds previously paid to Developer
on the fifth anniversary of the date of the Final Payment	0% of the aggregate amount of City Funds previously paid to Developer

8.21 [intentionally omitted]

8.22 **Limitation on Lease Amendments.** Throughout the Term of this Agreement, the Developer shall not execute or consent to a Material Amendment without the prior written consent of HED, which consent shall be in HED's sole discretion.

8.23 **LEED Covenant.** On or before the date that Developer files its first Requisition Form, the Developer shall have provided evidence acceptable to the City (the "LEED Covenant") that LEED Certification has been applied for with the U.S. Green Building Council and is being vigorously pursued by Developer. A default under this **Section 8.23** shall result in a \$250,000 permanent reduction in City Funds that shall be adjusted in connection with the First Payment to Developer, as set forth in **Section 4.03(c)** hereof, regardless whether LEED Certification is later obtained for the Developer Space.

8.24 **Job Readiness Program.** Not later than six months after the completion of the Rehabilitation Project, the Developer shall commence and then undertake a job readiness program with the City, through the Workforce Solutions Unit of HED, to formulate an employment plan for the Project.

8.25 **Annual Compliance Report.** The Developer shall file an Annual Compliance Report for the prior calendar year with HED on each date upon which a Job Certificate is to be filed with HED, as set forth in **Section 8.06(c)** hereof. If a given Annual Compliance Report is not timely filed, and thereafter the City provides written notice of said failure to Developer, then Developer shall have 10 business days following the date of the City letter to make the late filing to HED.

8.26 **Survival of Covenants.** All warranties, representations, covenants and agreements of the Developer contained in this **Section 8** and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in **Section 7** hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

8.27 **FOIA and Local Records Act Compliance**

(a) FOIA. The Developer acknowledges that the City is subject to the Illinois Freedom of Information Act, 5 ILCS 140/1 et. seq., as amended ("FOIA"). The FOIA requires the City to produce records (very broadly defined in FOIA) in response to a FOIA request in a very short period of time, unless the records requested are exempt under the FOIA. If, under this Agreement, the Developer performs a governmental function on the City's behalf and receives from the City or develops for the City any documents directly related to said governmental function, and such documents are not otherwise exempt, then the Developer covenants to comply with any request it receives from the City to produce records within the scope of FOIA within 48 hours of the date of such request.

(b) Exempt Information. Documents that the Developer submits to the City under Section 8.25 (Annual Compliance Report) or otherwise during the Term of the Agreement that contain trade secrets and commercial or financial information may be exempt if disclosure would result in competitive harm. However, for documents submitted by the Developer to be treated as a trade secret or information that would cause competitive harm, FOIA requires that the Developer mark any such documents as "proprietary, privileged or confidential." If the Developer so marks a document as "proprietary, privileged and confidential," then HED will evaluate whether such document may be withheld under the FOIA. HED, in its discretion, will determine whether a document will be exempted from disclosure, and that determination is subject to review by the Illinois Attorney General's Office and/or the courts.

(c) Local Records Act. The Developer acknowledges that the City is subject to the Local Records Act, 50 ILCS 205/1 et. seq., as amended (the "Local Records Act"). The Local Records Act provides that public records may only be disposed of as provided in the Local Records Act. If requested by the City, the Developer covenants to use its best efforts consistently applied to assist the City in its compliance with the Local Records Act concerning records arising under or in connection with the Agreement and the transactions contemplated in the Agreement.

## **SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY**

**9.01 General Covenants**. The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

**9.02 Survival of Covenants**. All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

## SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

**10.01 Employment Opportunity.** The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer operating on the Developer Space (collectively, with the Developer, the “Employers” and individually an “Employer”) to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Rehabilitation Project:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the “**Human Rights Ordinance**”). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Rehabilitation Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations

of federal, state and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Rehabilitation Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Developer Space, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this **Section 10.01** shall be a basis for the City to pursue remedies under the provisions of **Section 15.02** hereof.

**10.02 City Resident Construction Worker Employment Requirement.** The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

The Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

“**Actual residents of the City**” shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

The Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Rehabilitation Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of HED in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

The Developer, the General Contractor and each subcontractor shall provide full access to their employment records to the Chief Procurement Officer, the Commissioner of HED, the

Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. The Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Rehabilitation Project.

At the direction of HED, affidavits and other supporting documentation will be required of the Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution. **Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether the Developer must surrender damages as provided in this paragraph.**

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

The Developer shall cause or require the provisions of this **Section 10.02** to be included in all construction contracts and subcontracts related to the Project.

**10.03 MBE/WBE Commitment.** The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that during the Project:

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 *et seq.*, Municipal Code of Chicago (the "**Procurement Program**"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 *et seq.*, Municipal Code of Chicago (the "Construction Program," and collectively with the Procurement Program, the "**MBE/WBE Program**"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as set forth in **Exhibit H-2** hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 24 percent by MBEs.
- (2) At least four percent by WBEs.

(b) For purposes of this Section 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "**contractor**" and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a "**contract**" or a "**construction contract**" as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Rehabilitation Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Rehabilitation Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Rehabilitation Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Rehabilitation Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the Rehabilitation Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. In accordance with Section 2-92-730, Municipal Code of Chicago, the Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of HED.

(d) The Developer shall deliver quarterly reports to the City's monitoring staff during the Rehabilitation Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, *inter alia*, the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Rehabilitation



Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Rehabilitation Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining the Developer's compliance with this MBE/WBE commitment. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Rehabilitation Project for at least five years after completion of the Rehabilitation Project, and the City's monitoring staff shall have access to all such records maintained by the Developer, on five Business Days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Rehabilitation Project.

(e) Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, the Developer shall be obligated to discharge or cause to be discharged the disqualified General Contractor or subcontractor, and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Sections 2-92-540 and 2-92-730, Municipal Code of Chicago, as applicable.

(f) Any reduction or waiver of the Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

(g) Prior to the commencement of the Rehabilitation Project, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by the City's monitoring staff. During the Rehabilitation Project, the Developer shall submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Rehabilitation Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that the Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to the Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Rehabilitation Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

## SECTION 11. ENVIRONMENTAL MATTERS

[intentionally omitted]

## SECTION 12. INSURANCE

The Developer shall provide and maintain, or cause to be provided, at the Developer's own expense, during the Term of the Agreement (or as otherwise specified below), the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement and Throughout the Term of the Agreement

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$100,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. coverages shall include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(b) Construction

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability Insurance (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor shall provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory bases.

(iv) Builders Risk Insurance

When the Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as an additional insured and loss payee.

(v) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000. Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vi) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and has limits sufficient to pay for the re-creations and reconstruction of such records.

(vii) Contractor's Pollution Liability

When any remediation work is performed which may cause a pollution exposure, contractor's Pollution Liability shall be provided with limits of not less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of one (1) year. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(c) Term of the Agreement

- (i) Prior to the execution and delivery of this Agreement and during construction of the Rehabilitation Project, All Risk Property Insurance in the amount of the full replacement value of the Developer Space. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Developer Space. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.

(d) Other Requirements

The Developer will furnish the City of Chicago, Department of Housing and Economic Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance

evidence from the Developer shall not be deemed to be a waiver by the City. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

The insurance shall provide for 30 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer.

The Developer agrees that insurers shall waive rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The Developer expressly understands and agrees that any coverages and limits furnished by the Developer shall in no way limit the Developer's liabilities and responsibilities specified within the Agreement documents or by law.

The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the City of Chicago shall not contribute with insurance provided by the Developer under the Agreement.

The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

The Developer shall require the General Contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the General Contractor, or subcontractors. All General Contractors and subcontractors shall be subject to the same requirements (Section (d)) of Developer unless otherwise specified herein.

If the Developer, General Contractor or any subcontractor desires additional coverages, the Developer, General Contractor and any subcontractor shall be responsible for the acquisition and cost of such additional protection.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as any such change does not increase these requirements.

### **SECTION 13. INDEMNIFICATION**

**13.01 General Indemnity.** The Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

(i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or

(ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Eligible Improvements or any other Rehabilitation Project improvement; or

(iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or information statement or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or any Affiliate of the Developer or any agents, employees, contractors or persons acting under the control or at the request of the Developer or any Affiliate of the Developer; or

(iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto;

provided, however, that Developer shall have no obligation to an Indemnitee arising from the wanton or willful misconduct of that Indemnitee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, Developer shall contribute the maximum portion that it is permitted to pay and satisfy under the applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this **Section 13.01** shall survive the termination of this Agreement.

## SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

**14.01 Books and Records.** The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer's expense. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the Project.

**14.02 Inspection Rights.** Upon five (5) business days' notice, any authorized representative of the City has access to all portions of the Rehabilitation Project and the Developer Space during normal business hours for the Term of the Agreement.

## SECTION 15. DEFAULT AND REMEDIES

**15.01 Events of Default.** The occurrence of any one or more of the following events, subject to the provisions of **Section 15.03**, shall constitute an "Event of Default" by the Developer hereunder:

- (a) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement or any related agreement;
- (b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's business, property, assets, operations or condition, financial or otherwise;
- (c) the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;
- (d) [intentionally omitted]
- (e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's debts, whether under the United States Bankruptcy Code or under any other state or

federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for the Developer, for any substantial part of the Developer's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of the Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(g) the entry of any judgment or order against the Developer which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) the occurrence of an event of default under the Lender Financing (if applicable), which default is not cured within any applicable cure period;

(i) the dissolution of the Developer (other than in connection with the acquisition of Developer or substantially all of its assets where a Headquarters is still maintained in the Developer Space).

(j) the Developer has not delivered evidence satisfactory to the City of the LEED Covenant within the time period specified in **Section 8.23**; or

(k) during the period that the Developer is required to maintain the Letter of Credit, the Letter of Credit will expire within thirty (30) calendar days and the Developer has not delivered a substitute Letter of Credit, in form and substance satisfactory to the City in its sole and absolute discretion, within twenty (20) calendar days before the expiration date of the Letter of Credit.

**15.02 Remedies.** Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements and may suspend disbursement of City Funds, or draw down the entire balance of the Letter of Credit. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein.

The City's sole remedy for failure to meet the LEED Covenant set forth in **Section 8.23** shall be the right to seek reimbursement of \$250,000 of City Funds, unless the City Funds paid to Developer were already reduced by \$250,000 for said failure.





If to the Developer:

Prior to Completion of the Rehabilitation Project

The Hillshire Brands Company  
3500 Lacey Road  
Downers Grove, Illinois 60515  
Attention: Brian Hunter, Vice President, Real Estate and  
Facility Services

After Completion of the Rehabilitation Project

The Hillshire Brands Company  
400 S. Jefferson St.  
Chicago, Illinois 60607  
Attention: Brian Hunter, Vice President, Real Estate and  
Facility Services

With Copies To:

Bryan Cave LLP  
161 N. Clark Street - Ste 4300  
Chicago, Illinois 60601  
Attention: Gregory Hummel

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

#### SECTION 18. MISCELLANEOUS

**18.01 Amendment.** This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement **Exhibit D** hereto without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this **Section 18.01** shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer (including those set forth in **Sections 10.02 and 10.03** hereof) by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer

affecting the Project site, the Project, or both, or increases any time agreed for performance by the Developer by more than ninety (90) days.

**18.02 Entire Agreement.** This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

**18.03 Limitation of Liability.** No member, official or employee of the City shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

**18.04 Further Assurances.** The Developer agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

**18.05 Waiver.** Waiver by the City or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

**18.06 Remedies Cumulative.** The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

**18.07 Disclaimer.** Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

**18.08 Headings.** The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

**18.09 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

**18.10 Severability.** If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

**18.11 Conflict.** In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, such ordinance(s) shall prevail and control.

**18.12 Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

**18.13 Form of Documents.** All documents required by this Agreement to be submitted, delivered or furnished to the City shall be in form and content satisfactory to the City.

**18.14 Approval.** Wherever this Agreement provides for the approval or consent of the City, HED or the Commissioner, or any matter is to be to the City's, HED's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, HED or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or HED in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

**18.15 Assignment.** The Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City, provided, however, that the Developer may assign its interest in this Agreement to an entity purchasing substantially all of Developer's assets whose collective net worth is greater or equal to that of Developer at the time of such assignment. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Sections 8.19** (Real Estate Provisions) and **8.24** (Survival of Covenants) hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

**18.16 Binding Effect.** This Agreement shall be binding upon the Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein). Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

**18.17 Force Majeure.** Neither the City nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

**18.18 Exhibits.** All of the exhibits attached hereto are incorporated herein by reference.

**18.19 Business Economic Support Act.** Pursuant to the Business Economic Support Act (30 ILCS 760/1 *et seq.*), if the Developer is required to provide notice under the WARN Act, the Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where the Developer has locations in the State. Failure by the Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

**18.20 Venue and Consent to Jurisdiction.** If there is a lawsuit under this Agreement, each party may hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

**18.21 Costs and Expenses.** In addition to and not in limitation of the other provisions of this Agreement, Developer agrees to pay upon demand the City's out-of-pocket expenses, including attorney's fees, incurred in connection with the enforcement of the provisions of this Agreement. This includes, subject to any limits under applicable law, attorney's fees and legal expenses, whether or not there is a lawsuit, including attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services. Developer also will pay any court costs, in addition to all other sums provided by law.

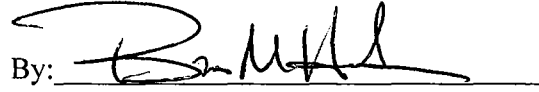
**18.22 Business Relationships.** The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally

or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "**Business Relationship**" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

**THE HILLSHIRE BRANDS COMPANY**, a Maryland corporation

By: 

Its: Vice President

**CITY OF CHICAGO**, an Illinois municipal corporation,  
by and through its Department of Housing and Economic  
Development

By: \_\_\_\_\_  
Andrew J. Mooney, Commissioner

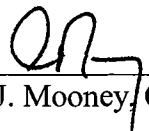
IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

**THE HILLSHIRE BRANDS COMPANY**, a Maryland corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

**CITY OF CHICAGO**, an Illinois municipal corporation,  
by and through its Department of Housing and Economic  
Development

By:  \_\_\_\_\_  
Andrew J. Mooney, Commissioner



**EXHIBIT A**

Canal/Congress Redevelopment Area

[see attached]

Public Act 92-263 also provides in Section 11-74.4-5(c) that:

~~Changes which do not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project cost set out in the redevelopment plan by more than five percent (5%) after adjustment for inflation from the date the plan was adopted, (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan, or (6) increase the number of low- or very low-income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of the households will exceed ten (10), may be made without further hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested parties registry, provided for under Section 11-74.4-4.2, and by publication in a newspaper of general circulation within the affected taxing district. Such notice by mail and by publication shall each occur not later than ten (10) days following the adoption by ordinance of such changes.~~

The City is making the following change in order to clarify a discrepancy between the Equalized Assessed Valuation (E.A.V.) list and the Maps of the Plan, and the legal description, where parcels of land on the north side of Jackson Boulevard between Jefferson and Clinton are shown on the Maps and listed on the E.A.V. list, but are not included in the legal description. The following text in italics is inserted, and the text in brackets is deleted:

thence south along said east line of Jefferson Street to the north line of *Quincy* [Jackson] Street;

thence east along said north line of [Jackson] *Quincy* Street to the west line of Clinton Street;

Section 8: This resolution shall be effective as of the date of its adoption.

Section 9. A certified copy of this resolution shall be transmitted to the City Council.

Adopted: October 13, 1998.

[(Sub)Exhibit "A" referred to in this Resolution 98-CDC-136 constitutes Exhibit "D" to the ordinance and is printed on page 81974 of this Journal.]

*Exhibit "C".*  
(To Ordinance)

*Legal Description Of Project Boundary.*

Beginning at the point of intersection of the south line of Harrison Street and the west line of Clinton Street; thence north along the west line of Clinton Street to the easterly extension of the north line of the south 9.40 feet of Lot 24 in the subdivision of Block 53 in School's Section Addition to Chicago in the east half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian; thence east along said easterly extension and the north line of the south 9.40 feet of Lot 24 in the subdivision of Block 53 in School's Section Addition to Chicago to a line 113 feet east of and parallel with the east line of Clinton Street; thence north along said line 113 feet east of and parallel with the east line of Clinton Street to the south line of Van Buren Street; thence west along said south line of Van Buren Street to the west line of Clinton Street; thence north along said west line of Clinton Street to the north line of Lot 12 in Gordon S. Hubbard's Subdivision of Blocks 45 and 52 of School Section Addition to Chicago in the east half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian; thence west along said north line of Lot 12 in Gordon S. Hubbard's Subdivision to the west line thereof; thence south along said west line of Lot 12 in Gordon S. Hubbard's Subdivision and the southerly extension thereof to the south line of Van Buren Street; thence west along said south line of Van Buren Street to the east line of Jefferson Street; thence south along said east line of Jefferson Street to the easterly extension of the north line of the south 24 feet of Lot 7 in the subdivision of Block 30 in School's Section Addition to Chicago in the west half of the

northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, said easterly extension of the north line of the south 24 feet of Lot 7 being also the south line of Congress Parkway; thence west along said south line of Congress Parkway to the west line of Desplaines Street; thence north along said west line of Desplaines Street to the north line of Lots 17, 18 and 19 in G. F. Blanchard's Subdivision of Block 20 in School Section Addition to Chicago in the west half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, said north line of Lots 17, 18 and 19 being also the south line of Tilden Street; thence west along said south line of Tilden Street to the southerly extension of the east line of the west 1 foot of Lot 14 in said G. F. Blanchard's Subdivision of Block 20 in School Section Addition to Chicago; thence north along said southerly extension and the east line of the west 1 foot of Lot 14 in said G. F. Blanchard's Subdivision of Block 20 in School Section Addition to Chicago to the north line of said Lot 14; thence west along said north line of Lot 14 and along the south line of Lots 4 and 5 in said G. F. Blanchard's Subdivision of Block 20 in School Section Addition to Chicago to the west line of said Lot 5; thence north along the west line of said Lot 5 to the south line of Van Buren Street; thence west along said south line of Van Buren Street to the southerly extension of the east line of the west 28.75 feet of Lot 14 in the subdivision of Block 21 in School Section Addition to Chicago in the west half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian; thence north along said southerly extension and the east line of the west 28.75 feet of Lot 14 in the subdivision of Blocks 4 and 21 in School Section Addition to Chicago and the northerly extension thereof to the north line of Gladys Avenue; thence east along said north line of Gladys Avenue to the west line of Desplaines Street; thence north along said west line of Desplaines Street to the westerly extension of the south line of the northerly 20.08 feet of Lot 5 in the subdivision of Block 28 in School Section Addition to Chicago in the west half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian; thence east along said westerly extension and the south line of the northerly 20.08 feet of Lot 5 in the subdivision of Block 28 in School Section Addition to Chicago to the east line of said Lot 5, said east line of Lot 5 being also the west line of the alley east of Desplaines Street; thence north along said west line of the alley east of Desplaines Street to the south line of the north 7.55 feet of Lot 5 in the subdivision of Lots 8 through 16, inclusive, in the subdivision of the west half of Block 27 in School Section Addition to Chicago in the west half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, said south line of the north 7.55 feet of Lot 5 in the subdivision of Lots 8 through 16, inclusive, in the subdivision of the west half of Block 27 in School Section Addition to Chicago being also the north line of the alley north of Jackson Boulevard; thence west along said north

line of the alley north of Jackson Boulevard and the westerly extension thereof to the west line of Desplaines Street; thence north along said west line of Desplaines Street to the north line of Lot 5 in Block 23 in School Section Addition to Chicago in the west half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, said north line of Lot 5 being also the south line of Marble Place; thence west along said south line of Marble Place to the southerly extension of the east line of Lot 3 in said Block 23 in School Section Addition to Chicago; thence north along said southerly extension and the east line of Lot 3 in said Block 23 in School Section Addition to Chicago to the south line of Monroe Street; thence west along said south line of Monroe Street to the southerly extension of the west line of the east 1.43 feet of Lot 7 in Block 24 in School Section Addition to Chicago; thence north along said southerly extension and the west line of the east 1.43 feet of Lot 7 in Block 24 in School Section Addition to Chicago and the northerly extension thereof to a line 9 feet north of and parallel to the north line of said Lot 7; thence west along said line 9 feet north of and parallel to the north line of said Lot 7 to the southerly extension of the west line of the east 26.81 feet of Lot 2 in said Block 24 in School Section Addition to Chicago; thence north along said southerly extension and the west line of the east 26.81 feet of Lot 2 in said Block 24 in School Section Addition to Chicago to the south line of Madison Street; thence west along said south line of Madison Street to the southerly extension of the west line of Lot 15 in Block 70 in Canal Trustee's Subdivision of lots and blocks in the southwest quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian; thence north along said southerly extension and the west line of Lot 15 in Block 70 in Canal Trustee's Subdivision and the northerly extension thereof to the north line of Warren Avenue; thence east along said north line of Warren Avenue to the east line of Desplaines Street; thence south along said east line of Desplaines Street to the north line of Monroe Street; thence east along said north line of Monroe Street to the west line of Clinton Street; thence south along said west line of Clinton Street to the south line of the north 1.92 feet of Lot 4 in Charles Wesencraft's Subdivision of Lots 3, 4, 5 and 6 in Block 47 of School Section Addition to Chicago in the east half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian; thence west along said south line of the north 1.92 feet of Lot 4 in Charles Wesencraft's Subdivision to the west line of said Lot 4; thence south along said west line of Lot 4 in Charles Wesencraft's Subdivision and along the west line of Lots 5 and 6 in said Charles Wesencraft's Subdivision to the south line of said Lot 6; thence east along said south line of said Lot 6 in Charles Wesencraft's Subdivision to the west line of Clinton Street; thence south along said west line of Clinton Street to the north line of the south 38.9 feet of Lot 8 in said Charles Wesencraft's Subdivision; thence west along said north line of the south 38.9 feet of Lot

8 in said Charles Wesencraft's Subdivision to the west line of said Lot 8; thence south along said west line of said Lot 8 in Charles Wesencraft's Subdivision to the north line of Adams Street; thence west along said north line of Adams Street to the east line of Lot 7 in W. B. Egan's Subdivision of Lots 7 and 8 in Block 47 of School Section Addition to Chicago in the east half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian; thence north along said east line of Lot 7 in W. B. Egan's Subdivision to the north line thereof; thence west along said north line of Lot 7 and along the north line of Lots 8 and 9 in said W. B. Egan's Subdivision and along the westerly extension of the north line of Lots 7, 8 and 9 in said W. B. Egan's Subdivision to the west line of Jefferson Street; thence north along said west line of Jefferson Street to the north line of Lot 5 in Block 26 in School Section Addition to Chicago in the east half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian; thence west along said north line of Lot 5 in Block 26 in School Section Addition to Chicago to the west line of said Lot 5; thence south along said west line of said Lot 5 to the north line of Adams Street; thence east along said north line of Adams Street to the east line of Jefferson Street; thence south along said east line of Jefferson Street to the north line of Jackson Street; thence east along said north line of Jackson Street to the west line of Clinton Street; thence north along said west line of Clinton Street to the north line of Adams Street; thence east along said north line of Adams Street to the east line of Canal Street; thence south along said east line of Canal Street to a point 116.45 feet north of the north line of Jackson Boulevard as measured along the west line of Lot 6 in the subdivision of Block 46 of the School Section Addition to Chicago in the east half of the northwest quarter of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian; thence east along a straight line to a point on the east line of said Lot 6 which is 121.21 feet northerly from the north line of Jackson Boulevard as measured along said east line of Lot 6; thence east along a straight line to a point on the east line of Lot 5 in said subdivision of Block 46 of the School Section Addition to Chicago which is 121.88 feet northerly from the north line of Jackson Boulevard as measured along said east line of Lot 5, said point on the east line of Lot 5 being also on the westerly channel line of the south branch of the Chicago River; thence southerly along said westerly channel line of the south branch of the Chicago River to the south line of Jackson Street; thence west along said south line of Jackson Street to the east line of Canal Street; thence south along said east line of Canal Street to the north line of Van Buren Street; thence east along said north line of Van Buren Street to the westerly channel line of the south branch of the Chicago River; thence southerly along said westerly channel line of the south branch of the Chicago River to the south line of Harrison Street; thence west along said south line of Harrison Street to the point of beginning. All in the City of Chicago, Cook County, Illinois.

**EXHIBIT B**

**DEVELOPER SPACE; PROPERTY**

That approximately 221,089 rentable square foot portion of the Property, described below, that the Developer is leasing as the Developer Space:

PINs:

17-16-126-001-0000

17-16-126-013-0000

Street Address:

400 S. Jefferson, Chicago, IL

LOT 1 AND THE NORTH 140.5 FEET OF LOT 2 (EXCEPT THAT PART THEREOF) DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH 140.5 FEET OF LOT 2; THENCE EAST ALONG THE SOUTH LINE OF SAID NORTH 140.5 FEET OF LOT 2; A DISTANCE OF 126 FEET TO A POINT; THENCE NORTH ALONG A LINE WHICH IS PARALLEL TO THE EAST LINE OF LOT 2, A DISTANCE OF 15 FEET TO A POINT; THENCE NORTHWESTERLY ALONG A LINE TO A POINT IN THE WEST LINE OF SAID LOT 2, SAID POINT BEING 37 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTH 140.5 FEET OF LOT 2; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 2 A DISTANCE OF 37 FEET TO THE POINT OF BEGINNING IN THE SUBDIVISION OF BLOCK 29 IN SCHOOL SECOND ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. ALSO THE EAST AND WEST 20 FEET OF VACATED ALLEY BETWEEN SAID LOTS 1 AND 2 AFORESAID, IN COOK COUNTY, ILLINOIS.

[

**EXHIBIT C**

**TIF-ELIGIBLE IMPROVEMENTS**

<u>Line Item</u>	<u>Cost</u>
Tenant improvements/build-out of office space	\$30,142,963
TOTAL	\$30,142,963

Notwithstanding the total of TIF-Eligible Improvements shown here or the amount of TIF-eligible costs, the assistance to be provided by the City is limited to the maximum amount of City Funds calculated pursuant to Section 4.03 herein (not to exceed \$6,500,000).



**EXHIBIT D**

Redevelopment Plan for Canal/Congress

[See attached]

6/19/2002

*Exhibit "A"*

*The Canal/Congress  
Tax Increment Financing  
Redevelopment Project And Plan.*

*City Of Chicago, Illinois*

*August 11, 1998  
Amendment Number 1  
May, 2002*

*City Of Chicago  
Richard M. Daley, Mayor.*

**Amendment Number 1:**

To induce redevelopment pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et seq., as amended (the "Act"), the City Council of the City of Chicago (the "City") adopted three ordinances on November 12, 1998, approving the Canal/Congress Tax Increment Financing Redevelopment Project and Plan (the "Original Plan," and as hereby amended, the "Redevelopment Plan"), designated the Canal/Congress Redevelopment Project Area (the "R.P.A.") as a redevelopment project area under the Act and adopted tax increment allocation financing for the R.P.A.

The purposes of this Amendment Number 1 are:

- (1) to extend the termination date of the R.P.A. and the date of completion of the Redevelopment Plan in accordance with recent amendments to the Act;
- (2) to add redevelopment project costs to the itemized list of redevelopment project costs set forth in the Redevelopment Plan;
- (3) to correct an error in the legal description of the R.P.A.

Amendments to the Act are stated in Public Act 92-263, which became effective on August 7, 2001, and in Public Act 92-406, which became effective on January 1, 2002. Pursuant to Section 11-74.4-3(n)(3) of the Act, a redevelopment plan approved by a municipality:

“... establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third (23<sup>rd</sup>) calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981 . . . .”

Also, Section 11-74.4-3(n)(9) of the Act provides that:

“(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.”

Section 11-74.4-3(q)(11)(F) of the Act provides that:

“(F) Instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.”

Accordingly, the Canal/Congress Tax Increment Financing Redevelopment Project and Plan is amended by inserting the text in italics and deleting the text in brackets, beginning with Section V., F of the Plan, “Redevelopment Project -- Redevelopment Project Costs”, in Section V., H., “Redevelopment Project -- Issuance of Obligations”, in Section X., “Phasing and Scheduling”, and in (Sub)Exhibit II, Estimated Redevelopment Project Costs as follows:

## V.

*Redevelopment Project.***F. Redevelopment Project Costs.**

The various redevelopment expenditures which are eligible for payment or reimbursement under the Act are reviewed below. Following this review is a list of estimated redevelopment project costs which are deemed to be necessary to implement this Redevelopment Plan (the "Redevelopment Project Costs").

**1. Eligible Redevelopment Project Costs.**

Redevelopment project costs include the sum total of all reasonable or necessary costs incurred, estimated to be incurred, or incidental to this Redevelopment Plan pursuant to the Act. Such costs may include, without limitation, the following:

- 1.) costs of studies, surveys, development of plans and specifications, implementation and administration of the redevelopment plan including but not limited to, staff and professional service costs for architectural, engineering, legal, marketing, financial, planning or other services (*excluding lobbying expenses*), provided that no charges for professional services are based on a percentage of the tax increment collected;
- 2.) *the costs of marketing sites within the R.P.A. to prospective businesses, developers and investors;*
- 3.) property assembly costs, including but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, *site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination including, but not limited to parking lots and other concrete or asphalt barriers*, and the clearing and grading of land;
- 4.) costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, and fixtures, *and leasehold improvements;*
- 5.) costs of the construction of public works or improvements;
- 6.) costs of job training and retraining projects *including the cost of "welfare to work" programs implemented by businesses located within the R.P.A.;*

- 7.) financing costs including, but not limited to, all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder *including interest* accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for a period not exceeding thirty-six (36) months following completion and including reasonable reserves related thereto;
- 8.) all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs;
- 9.) relocation costs to the extent that the municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or state law;
- 10.) payment in lieu of taxes as defined in the Act;
- 11.) costs of job training, advanced vocational education or career education, including but not limited to, courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one (1) or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to, the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by the community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of the School Code;

12.) interest costs incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

- 1.) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;
- 2.) such payments in any one (1) year may not exceed thirty percent (30%) of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;
- 3.) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this provision, then the amount so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund; and
- 4.) the total of such interest payments incurred pursuant to this Act may not exceed thirty percent (30%) of the total: (i) costs paid or incurred by the redeveloper for such redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act;
- 5.) *up to seventy-five percent (75%) of the interest cost incurred by a redeveloper for the financing of rehabilitated or new housing for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act;*
- 6.) *instead of the eligible costs provided for in subparagraphs (2) and (5) above, the municipality may pay from tax increment revenues up to fifty percent (50%) of the cost of construction of new housing units to be occupied by low- and very low-income households (for ownership or rental) as defined in Section 3 of the Illinois Affordable Housing Act. If the units are part of a residential redevelopment project that includes units not affordable to low- and very low-income households, only the low- and very low-income units shall be eligible for benefits under the Act;*

13. *an elementary, secondary, or unit school district's increased costs attributable to assisted housing units will be reimbursed as provided in the Act;*

14. *the costs of daycare services for children of employees from low-income families working for businesses located within the R.P.A. and all or a portion of the cost of operation of day care centers established by R.P.A. businesses to serve employees from low-income families working in businesses located in the R.P.A.. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed eighty percent (80%) of the City, county or regional median income as determined from time to time by the United States Department of Housing and Urban Development;*

15. *unless explicitly provided in the Act, the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.*

## 2. Estimated Redevelopment Project Costs.

*The estimated eligible costs of this Redevelopment Plan are shown in (Sub)Exhibit II. The total eligible cost provides an upper limit on expenditures that are to be funded using tax increment revenues (exclusive of capitalized interest, issuance costs, interest, and other financing costs). Within this limit, adjustments may be made in line items without amendment to this Redevelopment Plan. Additional funding in the form of State and Federal grants, private developers' contributions and other outside sources may be pursued by the City as a means of financing improvements and facilities which are of benefit to the general community and the Canal/Congress R.P.A., but any such funding would not be part of the total redevelopment project costs described in (Sub)Exhibit II of this Redevelopment Plan. [A range of redevelopment activities will be required to implement this Redevelopment Plan. The activities and improvements and their estimated costs are set forth in (Sub)Exhibit II of this Redevelopment Plan. All estimates are based on 1998 dollars. Funds may be moved from one line item to another or to an eligible cost category described in this Plan.]*

*[Redevelopment Project Costs described in the Redevelopment Plan are intended to provide an upper estimate of expenditures. Within this upper estimate, adjustments may be made in line items without amending this Redevelopment Plan.]*

## H. Issuance Of Obligations.

*The City may issue obligations secured by Incremental Property Taxes pursuant to Section 11-74.4-7 of the Act. To enhance the security of a municipal obligation, the City may pledge its full faith and credit through the issuance of general obligation bonds. Additionally, the City may provide other legally permissible credit enhancements to any obligations issued pursuant to the Act.*

All obligations issued by the City pursuant to this Redevelopment Plan and the Act shall be retired *not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third (23<sup>rd</sup>) calendar year after the year in which the ordinance approving the redevelopment project area is adopted (such ultimate retirement date occurring on December 31, 2022. [within twenty three (23) years from the adoption of the ordinance approving the Project Area and the Redevelopment Plan, such ultimate retirement date occurring in the year 2021].* Also, the final maturity date of any such obligations which are issued may not be later than twenty (20) years from their respective dates of issue. One (1) or more of a series of obligations may be sold at one (1) or more times in order to implement this Redevelopment Plan. Obligations may be issued on a parity or subordinated basis.

In addition to paying Redevelopment Project Costs, Incremental Property Taxes may be used for the scheduled retirement of obligations, mandatory or optional redemptions, establishment of debt service reserves and bond sinking funds. To the extent that Incremental Property Taxes are not needed for these purposes, any excess Incremental Property Taxes shall then become available for distribution annually to taxing districts having jurisdiction over the Project Area in the manner provided by the Act.

#### X.

##### Phasing And Scheduling.

A phased implementation strategy will be utilized to achieve comprehensive and coordinated redevelopment of the Project Area.

It is anticipated that City expenditures for Redevelopment Project Costs will be carefully staged on a reasonable and proportional basis to coincide with Redevelopment Project expenditures by private developers and the receipt of Incremental Property Taxes by the City. *The completion date of the redevelopment project is not later than December 31, 2022. [The estimated date for completion of Redevelopment Projects in no later than the year 2021].*



## (Sub)Exhibit II. Estimated Redevelopment Project Costs.

Eligible Expense	Estimated Costs*
Analysis, Administration, Studies, Surveys, Legal, et cetera	\$2,500,000
Property Assembly:	
Acquisition	5,000,000
Site Prep; Demolition and Environmental Remediation	10,000,000
Rehabilitation of Existing Buildings	37,000,000 [43,000,000]
Public Works or Improvements	
Streets and Utilities	6,000,000
Parks and Open Spaces	9,000,000
Taxing Districts Capital Costs	1,200,000
Relocation	500,000
Job Training	5,000,000
Developer/Interest Subsidy	6,500,000
Day Care Services	3,000,000
Cost of construction of low- and very low-income housing	3,000,000
<b>TOTAL REDEVELOPMENT COSTS:</b>	<b>\$88,700,000<sup>(1)</sup></b>

<sup>(1)</sup> Total Redevelopment Project Costs exclude any additional financing costs, including any interest expense, capitalized interest and costs associated with optional redemptions. These costs are subject to prevailing market conditions and are in addition to Total Project Costs. Total Project Costs are inclusive of redevelopment project costs in contiguous redevelopment project areas that are permitted under the Act to be paid from incremental property taxes.

Public Act 92-263 also provides in Section 11-74.4-5(c) that:

Changes which do not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project cost set out in the redevelopment plan by more than five percent (5%) after adjustment for inflation from the date the plan was adopted, (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan, or (6) increase the number of low- or very low-income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of the households will exceed ten (10), may be made without further hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested parties registry, provided for under Section 11-74.4-4.2, and by publication in a newspaper of general circulation within the affected taxing district. Such notice by mail and by publication shall each occur not later than ten (10) days following the adoption by ordinance of such changes.

The City is making the following change in order to clarify a discrepancy between the Equalized Assessed Valuation (E.A.V.) list and the Maps of the Plan, and the legal description, where parcels of land on the north side of Jackson Boulevard between Jefferson and Clinton are shown on the Maps and listed on the E.A.V. list, but are not included in the legal description. The following text in italics is inserted, and the text in brackets is deleted:

thence south along said east line of Jefferson Street to the north line of *Quincy* [Jackson] Street;

thence east along said north line of [Jackson] *Quincy* Street to the west line of Clinton Street;

## Exhibit "A".

*Canal/Congress Tax Increment Financing  
Redevelopment Project And Plan.***I. INTRODUCTION**

This document is to serve as a redevelopment plan for an area that is located west the City of Chicago's (the "City") central business district (the "Loop") and is generally bounded on the north by Madison, Monroe and Adams Streets; on the south by Congress Parkway and Harrison Street; on the east by Clinton and Canal Streets and the South Branch of the Chicago River; and on the west by the Kennedy Expressway and Desplaines Street. This area is subsequently referred to in this document as the Canal/Congress Tax Increment Financing Redevelopment Project Area, (the "Project Area"). The Project Area is strategically located directly west of the Loop and is regionally accessible by the adjacent Kennedy, Dan Ryan and Eisenhower Expressways, the commuter and intercity rail lines running in and out of Union and Northwestern Train Stations, and the Chicago River.

Despite its enviable location adjacent to the Loop and its easy accessibility, the Project Area has been developed and expanded over the years on an ad hoc basis with no comprehensive approach. It consists of a mixture of building types, sizes, conditions, and uses. The Project Area lacks overall character and identity, containing older buildings, vacant lots and deteriorating properties. Aware of the Project Area's strategic location, the City recognizes the need to develop this area on a coordinated and comprehensive basis. Recent planning efforts which address the Project Area include the 1973 *Chicago 21 Plan*; the 1985 *Report of The West Loop Task Force*; the 1990 *West Loop Development Plan Executive Summary*; and the November 1993 draft report, *The West Loop Development Plan and Executive Summary*. These plans set forth recommendations for development and redevelopment of the Project Area and, together with the *Downtown Parking Policies*, City of Chicago, 1989; *Chicago River Urban Design Guidelines*, 1990; *Guidelines for Transit-Supportive Development*, Chicago Transit Authority (the "CTA"), 1996; and the *Mayor's Parking Task Force Report*, City of Chicago, 1997 form the basis for many of the recommendations presented in this Redevelopment Plan.

Recognizing the Project Area's potential as an extension of the Loop and as a vital link to the Near West Community Area, the City is taking a proactive step toward the economic renaissance of the Project Area. The City wishes to stabilize and provide cohesion to this portion of the West Loop and support business, retail, institutional, open space, transportation and residential expansion and to encourage private investment and development activity through the use of tax increment financing.

As part of its strategy to encourage managed growth and stimulate private investment within the Project Area, the City engaged Tkla, Pettigrew, Allen & Payne, Inc. ("TPAP") with the assistance from R.M. Chin & Associates ("RMCA") to study whether the Project Area of approximately 41.3 acres qualifies as a "conservation area" or a "blighted area" under the Illinois Tax Increment Allocation Redevelopment Act (65 ILCS 5/11/74.4-3). The Project Area, described in more detail below as well as in the accompanying Eligibility Study, has not been subject to

growth and development through investment by private enterprise and is not reasonably expected to be developed without the efforts and leadership of the City.

While small-scale or piecemeal redevelopment efforts might occur in limited portions of the Project Area, the sheer size and magnitude of several of the existing buildings within the Project Area, coupled with the extensive obsolescence, vacancies and long-term depreciation of physical maintenance of most of the existing buildings, are likely to preclude the revitalization of the Project Area on a scale sufficient to return the Project Area to a long-term sound condition without the intervention of the City.

For instance, located within the Project Area is the historically significant former Chicago Main Post Office at Canal Street and Congress Parkway which is eligible for listing in the National Register of Historic Places. This building was built in two phases between 1921 and 1933 and has been vacant for about four years. Adaptive reuse of this building by private investment alone is impeded by: 1) the sheer magnitude of the building comprising over 2.4 million square feet, which for reference purposes is larger than the Chicago Amoco Building located at 200 E. Randolph Street; 2) the requirement of a substantial investment in preserving the historic and architecturally significant nature of the building; and 3) the substantial investment required to convert the building for one or more different use(s).

Also historically significant within the Project Area is the Union Station built in 1925 and located along Canal and Jackson Streets. For more than 15 years approximately 60% of the building has been vacant and available for lease. However, the above ground floors of the building show an overall depreciation of physical maintenance requiring significant investment and rehabilitation to attract any prospective tenants.

The building located at 444 W. Jackson Street is significant to the Project Area in that it has been vacant for over 10 years, and contains over 80,000 square feet of undeveloped space. This building was completed in 1971 and its intended principal use was to serve as a trading floor area for the Mid - America Commodities Exchange. However, the company vacated the building in 1981 leaving the site undeveloped. Since the building was specifically built to be a trading area, the design of the building does not lend itself to be easily converted into office space. Essentially, the building is an empty shell, obsolete in its design and space due to the excessive ceiling heights and open floors and contains interior components in a partially demolished condition and an obsolete mechanical system. The building's obsolete design, coupled with years of deferred maintenance, require significant investment and rehabilitation to adapt the building for a marketable use.

The City believes that the Project Area should be revitalized on a coordinated, comprehensive and planned basis consistent with the highest quality standards of design and construction for which the downtown is renown and to ensure continuity with the revitalization program of the larger West Loop. A coordinated and comprehensive redevelopment effort will allow the City and other taxing districts to work cooperatively to prepare for the increased service demands

that may arise from the conversion of underutilized land and buildings to more intensive uses. Such a comprehensive redevelopment plan will also encourage job training to prepare residents of surrounding and nearby neighborhoods for newly created job opportunities anticipated within the Project Area.

**A. Canal/Congress Tax Increment Financing Redevelopment Project Area**

The Project Area contains 33 buildings and encompasses a total of approximately 41.3 acres and is adjacent to the west side of the Loop. All areas of the Project Area are improved with buildings or surface parking lots. For a map depicting the boundaries and legal description of the Project Area, see Section II, *Legal Description*.

In general, the Project Area can be described as a "mixed use" area with a variety of land uses, which includes: office, residential, retail, entertainment, institutional, transportation, government and open space.

The Project Area as a whole contains a mix of office, warehouse, and commercial buildings all varying in height and size. Ninety-one percent (91%) of the 33 total buildings are over 35 years old. The Project Area is characterized by aging infrastructure, deteriorated site development, obsolescent buildings, structures below minimum code standards, and vacant and underutilized buildings. Significant to the Project Area is the former Main Post Office located at Canal Street and Congress Parkway. This building has been essentially vacant for approximately four years since the Post Office relocated to a new facility one block south. The Post Office facility contains over 2.4 million square feet of available space. While the size and location of the Post Office lend itself to many redevelopment opportunities, the magnitude, obsolescence, and long-term depreciation of physical maintenance of the complex are likely to seriously limit redevelopment efforts that may occur through private investment.

The considerable physical assets of the Project Area include the following features:

- The "Circle" Interchange enables the Project Area to be accessible to the interstate highway systems. It is located directly west of the Project Area and serves as the entryway to the Kennedy Expressway (I-94), the Dan Ryan Expressway (I-90/94), the Eisenhower Expressway (I-290) and the Loop.
- The Project Area is served by two train stations enabling the Project Area to be regionally and locally accessible. Union Station, located within the Project Area on Canal and Jackson Streets, accommodates both Metra commuter rail service and Amtrak intercity rail service. The Northwestern Station, located a couple blocks outside the Project Area on Madison and Canal Street, accommodates Metra commuter rail service.

- CTA Rapid Transit Station for the O'Hare (Blue) Line within the Project Area at Clinton Street and Congress Parkway connects the Loop to the western suburbs and O'Hare airport.
- Numerous exits off the Kennedy Expressway (I-94) provide convenient access to the Loop.
- The Loop is located directly east of the Project Area which makes the area attractive for new development.
- The Chicago River provides a navigable waterway and an opportunity for community open space along the river.
- Eight CTA bus lines serve the Project Area.

Although the Project Area enjoys strong locational assets, particularly its excellent highway, rail, transit, bus service, water access, and proximity to the Loop, the Project Area is likely to erode without reinvestment as existing properties continue to sit vacant due to deterioration and obsolescence while potential business and residential tenants find more attractive and desirable environments in which to locate.

The Project Area on the whole has not been subject to growth and development through investment by private enterprise. Evidence of this lack of growth and development is detailed in *Section VI* and summarized below.

- Numerous buildings show signs of obsolescence, deterioration, building code violations, excessive vacancies, and an overall depreciation of physical maintenance.
- The majority of the Project Area's infrastructure needs to be repaired. Most of the Project Area's curbs and gutters, street lighting, alleys and sidewalks need repair or replacement.
- Within the last five years, no new buildings have been built in the Project Area. In this same time period, only three of the 33 buildings in the Project Area indicated significant building permit costs. The total building permit activity for these three buildings is \$2,034,080. Seventy-four percent (74%) of the total cost is attributable to interior renovations to the vacant hotel located at Harrison and Canal Streets. Overall, the investment is very limited and scattered having little to no impact on the Project Area.
- Five warehouse structures have been demolished between January 1, 1993 and May 20, 1998 within the Project Area. This indicates a decline in business activity in the Project Area since these demolitions have not been replaced with new construction and the current use of the properties are surface parking lots.
- Between 1991 and 1997, the Assessed Value (the "AV") of the Project Area decreased from \$24,639,359 to \$16,774,845, a decrease of \$7,864,514 or 31.9 percent. Over this same period, the AV of the City as a whole increased by 16.25 percent. The majority of the significant decrease in AV is attributable to two buildings within the Project Area. The first building is the parking garage owned by Amtrak located at Jackson and Canal

Streets which had an AV of \$4,939,999 in 1991 and then later became tax exempt. The AV of the second building, located at 547 West Jackson, was reduced by \$2,878,543 between 1991 and 1997 because it is owned and partially occupied by the public Commuter Rail Division of RTA. Excluding these two buildings from the analysis, the AV of the Project Area between 1991 and 1997 decreased \$45,972 or .27 percent.

- Between 1991 and 1997, the Equalized Assessed Value (the "EAV") of the Project Area decreased from \$50,567,356 to \$36,047,464, a decrease of \$14,519,892 or 28.7 percent. Over this same period, the EAV of the City as a whole increased by 21.7 percent. As stated in the above paragraph, the majority of the significant decrease in EAV is attributable to two buildings within the Project Area. Excluding these two buildings from the analysis, the EAV of the Project Area between 1991 and 1997 decreased \$1,526,099 or 4.4 percent.
- A significant number of buildings within the Project Area are vacant or underutilized. In particular, the Old Main Post Office has been vacant for almost four years, which represents over 2.4 million square feet of undeveloped space. The building located at 444 West Jackson has been vacant for over 10 years, which totals over 80,000 square feet of undeveloped space. Also, Union Station has been approximately 60 percent vacant for over 15 years. In addition to the above buildings, close to 100,000 square feet of vacant space is reported to exist in six other buildings within the Project Area. This vacant space is evidence of the lack of growth and development within the Project Area.

Without a comprehensive and area-wide effort by the City to promote investment, the Project Area will not likely be subject to sound growth and development through private investment. In spite of existing plans and City programs which support the rehabilitation and improvement of the Project Area, minimal new construction and private investment has occurred in the Project Area. The Project Area developed more than 75 years ago on a parcel-by-parcel basis without the benefit of community planning guidelines and standards. Today, much of the Project Area is characterized by dilapidation, obsolescence, deterioration, structures below minimum code standards, excessive vacancies, lack of light, ventilation, and sanitary facilities, deleterious land-use or layout, depreciation of physical maintenance and an overall lack of community planning.

While small-scale, piecemeal development might occur in limited portions of the Project Area, the City believes that the Project Area should be revitalized on a coordinated, comprehensive and planned basis to ensure continuity with the planning efforts of the greater central area and surrounding neighborhoods. A coordinated and comprehensive redevelopment effort will allow the City and other taxing districts to work cooperatively to prepare for the increased service demands that may arise from the conversion of underutilized land and buildings to more intensive uses. Such a comprehensive redevelopment plan will also encourage job training to assist in putting residents of the neighborhood and the surrounding neighborhoods to work in jobs anticipated to be created within the Project Area.

### ***B. Tax Increment Financing***

In January 1977, Tax Increment Financing ("TIF") was authorized by the Illinois General Assembly through passage of the *Tax Increment Allocation Redevelopment Act*, 65 ILCS 5/11-74.4-1 *et seq.*, as amended (the "Act"). The Act provides a means for municipalities, after the approval of a redevelopment plan and project, to redevelop blighted, conservation, or industrial park conservation areas and to finance eligible "redevelopment project costs" with incremental property tax revenues. "Incremental Property Tax" or "Incremental Property Taxes" are derived from the increase in the current EAV of real property within the redevelopment project area over and above the "Certified Initial EAV" of such real property. Any increase in EAV is then multiplied by the current tax rate which results in Incremental Property Taxes. A decline in current EAV does not result in a negative Incremental Property Tax.

To finance redevelopment project costs, a municipality may issue obligations secured by Incremental Property Taxes to be generated within the project area. In addition, a municipality may pledge towards payment of such obligations any part or any combination of the following: (a) net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in the municipality; (c) the full faith and credit of the municipality; (d) a mortgage on part or all of the redevelopment project; or (e) any other taxes or anticipated receipts that the municipality may lawfully pledge.

Tax increment financing does not generate tax revenues by increasing tax rates; it generates revenues by allowing the municipality to capture, temporarily, the new tax revenues produced by the enhanced valuation of properties resulting from the municipality's redevelopment program, improvements and activities, various redevelopment projects, and the reassessment of properties. Under TIF, all taxing districts continue to receive property taxes levied on the initial valuation of properties within the redevelopment project area. Additionally, taxing districts can receive distributions of excess Incremental Property Taxes when annual Incremental Property Taxes received exceed principal and interest obligations for that year and redevelopment project costs necessary to implement the redevelopment plan have been paid. Taxing districts also benefit from the increased property tax base after redevelopment project costs and obligations are paid.

### ***C. The Redevelopment Plan for the Canal/Congress Tax Increment Financing Redevelopment Project Area***

As evidenced in *Section VI*, the Project Area as a whole has not been subject to growth and development through private investment. Furthermore, it is not reasonable to expect that the Project Area as a whole will be redeveloped without the use of TIF.

TPAP and RMCA have prepared the Canal/Congress Tax Increment Financing Redevelopment Plan and Project (the "Redevelopment Plan") and the related eligibility study with the understanding that the City would rely on (i) the findings and conclusions of the Redevelopment Plan



and the related eligibility study in proceeding with the designation of the Redevelopment Plan, and (ii) the fact that TPAP and RMCA have obtained the necessary information so that the Redevelopment Plan and the related eligibility study will comply with the Act.

This Redevelopment Plan has been formulated in accordance with the provisions of the Act and is intended to guide improvements and activities within the Project Area in order to stimulate private investment in the Project Area. The goal of the City, through implementation of this Redevelopment Plan, is that the entire Project Area be revitalized on a comprehensive and planned basis to ensure that private investment in rehabilitation and new development occurs:

1. On a coordinated rather than piecemeal basis to ensure that land use, access and circulation, parking, public services and urban design are functionally integrated and meet present-day principles and standards; and
2. On a reasonable, comprehensive and integrated basis to ensure that the factors of blight and conservation are eliminated; and
3. Within a reasonable and defined time period so that the Project Area may contribute productively to the economic vitality of the City.

Redevelopment of the Project Area will constitute a large and complex endeavor, and presents challenges and opportunities commensurate with its scale. The success of this redevelopment effort will depend to a large extent on the cooperation between the private sector and agencies of local government. Adoption of this Redevelopment Plan will make possible the implementation of a comprehensive program for redevelopment of the Project Area. By means of public investment, the Project Area will become a stable environment that will again attract private investment. Public investment will set the stage for area-wide redevelopment by the private sector. Through this Redevelopment Plan, the City will serve as the central force for directing the assets and energies of the private sector to ensure a unified and cooperative public-private redevelopment effort.

This Redevelopment Plan sets forth the overall "Redevelopment Project" to be undertaken to accomplish the City's above-stated goal. During implementation of the Redevelopment Project, the City may, from time to time: (i) undertake or cause to be undertaken public improvements and activities; and (ii) enter into redevelopment agreements with private entities to construct, rehabilitate, renovate or restore private improvements on one or several parcels (collectively referred to as "Redevelopment Projects").

This Redevelopment Plan specifically describes the Project Area and summarizes the conservation area factors which qualify the Project Area as a "conservation area" as defined in the Act.

Successful implementation of this Redevelopment Plan requires that the City utilize Incremental Property Taxes and other resources in accordance with the Act to stimulate the comprehensive and coordinated development of the Project Area. Only through the utilization of TIF will the Project Area develop on a comprehensive and coordinated basis, thereby eliminating

the existing and threatened blight and conservation area conditions which have limited development of the Project Area by the private sector.

The use of Incremental Property Taxes will permit the City to direct, implement and coordinate public improvements and activities to stimulate private investment within the Project Area. These improvements, activities and investments will benefit the City, its residents, and all taxing districts having jurisdiction over the Project Area. These anticipated benefits include:

- An increased property tax base arising from new business and residential development and the rehabilitation of existing buildings.
- An increased sales tax base resulting from new and existing retail development.
- An increase in construction, business, retail, commercial, and other full-time employment opportunities for existing and future residents of the City.
- The construction of an improved system of roadways, utilities and other infrastructure which better serves existing businesses and adequately accommodates desired new development.

## II. LEGAL DESCRIPTION AND PROJECT BOUNDARY

The boundaries of the Project Area have been drawn to include only those contiguous parcels of real property and improvements substantially benefited by the proposed Redevelopment Project to be undertaken as part of this Redevelopment Plan. The boundaries of the Project Area are shown in Figure 1, *Project Boundary*, and are generally described below:

The Project Area is generally bounded on the north by Madison, Monroe and Adams Streets; on the south by Congress Parkway and Harrison Street; on the east by Clinton and Canal Streets and the South Branch of the Chicago River; and on the west by the Kennedy Expressway and Desplaines Street.

The boundaries of the Project Area are legally described in Exhibit I at the end of this report.

## III. ELIGIBILITY CONDITIONS

The results summarized in this section are more fully described in a separate report which presents the definition, application and extent of the conservation and blight factors in the Project Area. The report, prepared by RMCA with assistance from TPAP is entitled "Canal/Congress Tax Increment Financing Eligibility Study," is attached as Exhibit IV to this Redevelopment Plan.

Based upon surveys, inspections and analyses of the Project Area, the Project Area qualifies as a "conservation area" within the requirements of the Act. Fifty percent (50%) or more of the

buildings in the Project Area have an age of 35 years or more, and the Project Area is characterized by the presence of a combination of three or more of the conservation factors listed in the Act, rendering the Project Area detrimental to the public safety, health and welfare of the citizens of the City. The Project Area is not yet a blighted area, but it may become a blighted area. Specifically,

- Of the 33 buildings in the Project Area, 30 buildings (91 %) are 35 years of age or older.
- Of the remaining 14 factors set forth in the Act for conservation areas, nine factors are found to be present.
- Six of the nine factors found to be present are found to be present to a major extent and are reasonably distributed throughout the Project Area. These factors include: obsolescence, deterioration, structures below minimum code, excessive vacancies, depreciation of physical maintenance and lack of community planning.
- Three of the nine factors found to be present area found to be present to a limited extent. These factors include: dilapidation, lack of light, ventilation and sanitary facilities, and deleterious land use or layout.
- All blocks within the Project Area show the presence of conservation factors.
- The Project Area includes only real property and improvements thereon substantially benefited by the proposed redevelopment project improvements.

#### *A. Surveys and Analyses Conducted*

The conservation and blight factors found to be present in the Project Area are based upon surveys and analyses conducted by RMCA and TPAP. The surveys and analyses conducted for the Project Area include:

1. Exterior survey of the condition and use of each building;
2. Interior building survey of the interior condition and use of 24 of the 32 buildings (interior access for 9 buildings was not available);
3. Site surveys of streets, alleys, sidewalks, curbs and gutters, lighting, parking facilities, landscaping, fences and walls, and general property maintenance;
4. Analysis of existing uses and their relationships;
5. Comparison of interior and exterior building conditions to property maintenance codes of the City;
6. Analysis of current parcel configuration and building size and layout;
7. Analysis of vacant sites and vacant buildings;
8. Analysis of building floor area and site coverage;
9. Analysis of building permits issued for the Project Area from January 1993 to May 1998;

10. Analysis of building code violations for the Project Area from January 1993 to May 1998; and
11. Review of previously prepared plans, studies, policies and data.

#### IV. REDEVELOPMENT GOALS AND OBJECTIVES

Comprehensive and coordinated area-wide investment in new public and private improvements and facilities is essential for the successful redevelopment of the Project Area and the elimination of conditions that have impeded redevelopment of the Project Area in the past. Redevelopment of the Project Area will benefit the City through improvements in the physical environment, an increased tax base, and additional employment opportunities.

This section identifies the general goals and objectives adopted by the City for redevelopment of the Project Area. Section V presents more specific objectives for development and design within the Project Area and the redevelopment activities the City plans to undertake to achieve the goals and objectives presented in this section.

##### *A. General Goals*

Listed below are the general goals adopted by the City for redevelopment of the Project Area. These goals provide overall focus and direction for this Redevelopment Plan.

1. An improved quality of life in the Project Area and the surrounding community.
2. Elimination of the influences and manifestations of physical and economic deterioration and obsolescence within the Project Area.
3. An environment which will contribute more positively to the health, safety and general welfare of the Project Area and the surrounding community.
4. An environment which will preserve or enhance the value of properties within and adjacent to the Project Area.
5. An increased real estate and sales tax base for the City and other taxing districts having jurisdiction over the Project Area.
6. The retention and enhancement of sound and viable existing businesses and industries within the Project Area.
7. The attraction of new business, commercial, retail, light industrial, institutional and residential development and the creation of new job opportunities within the Project Area.
8. Employment of residents within the Project Area and within the adjacent communities in jobs in the Project Area and in adjacent redevelopment project areas. When appropriate, developers and businesses should avail themselves to local community groups and training institutions to identify, pre-screen and provide pre-employment training to local residents.

**B. *Redevelopment Objectives***

Listed below are the redevelopment objectives which will guide planning decisions regarding redevelopment within the Project Area.

1. Reduce or eliminate those conditions which qualify the Project Area as a conservation area. These conditions are described in detail in Exhibit IV to this Redevelopment Plan.
2. Strengthen the economic well-being of the Project Area by increasing taxable values.
3. Assemble or encourage the assembly of land into parcels of appropriate shape and sufficient size for redevelopment in accordance with this Redevelopment Plan.
4. Create an environment which stimulates private investment in the upgrading and expansion of existing businesses and the construction of new business, residential and commercial facilities.
5. Encourage visually attractive buildings, rights-of-way and open spaces and encourage high standards of design, including river edge amenities where appropriate.
6. Rehabilitate and enhance historically significant buildings within the Project Area.
7. Provide needed improvements and facilities in proper relationship to the projected demand for such facilities and in accordance with present-day design standards for such facilities.
8. Provide needed incentives to encourage a broad range of improvements in business retention, rehabilitation and new development.
9. Establish job readiness and job training programs to provide residents within the Project Area and within the surrounding adjacent communities with the skills necessary to secure jobs in the Project Area and in adjacent redevelopment project areas.
10. Secure commitments from employers in the Project Area and adjacent redevelopment project areas to interview graduates of the Project Area's job readiness and job training programs.
11. Create new job opportunities for City residents utilizing first source hiring programs and appropriate job training programs.
12. Provide opportunities for women and minority businesses to share in the redevelopment of the Project Area.

## V. REDEVELOPMENT PROJECT

This section presents the Redevelopment Project anticipated to be undertaken by the City and by private entities on behalf of the City in furtherance of this Redevelopment Plan. Several previous plans and policies, including the 1973 *Chicago 21 Plan*; the 1985 *Report of The West Loop Task Force*; the 1990 *West Loop Development Plan Executive Summary*; the November 1993 draft report, *The West Loop Development Plan and Executive Summary*; *Downtown Parking Policies*, City of Chicago, 1989; *Guidelines for Transit-Supportive Development*, CTA, 1996; and the *Mayor's Parking Task Force Report*, City of Chicago, 1997 have been reviewed and form the basis for many of the recommendations presented in this Redevelopment Plan.

The Redevelopment Project described in this Redevelopment Plan and pursuant to the Act includes: a) the overall redevelopment concept, b) the land use plan, c) improvement and development recommendations for planning subareas, d) development and design objectives, e) a description of redevelopment improvements and activities, f) estimated redevelopment project costs, g) a description of sources of funds to pay estimated redevelopment project costs, h) a description of obligations that may be issued, and i) identification of the most recent EAV of properties in the Project Area and an estimate of future EAV.

### A. Overall Redevelopment Concept

The Project Area should be redeveloped as a cohesive and distinctive business and residential district that functions as part of the central business district and serves as a link between the Loop and the Near West Side Communities. It should consist of residential and business uses offering a range of site development opportunities; commercial uses that serve and support surrounding neighborhoods and employment centers; and a range of public facilities, open spaces and pedestrian amenities. The river's edge should be improved and enhanced as an open space amenity and river walkway.

The Project Area should be redeveloped as a mixed use district. Within the Project Area, viable existing businesses should be retained and enhanced, and new business, institutional, government, transportation, residential, and retail development should be undertaken in the existing vacant or underutilized properties within the Project Area.

The entire Project Area should be marked by improvements in safety and infrastructure, retention and expansion of jobs and businesses, new business and residential development, and enhancement of the area's overall image and appearance. Improvement projects should include:

the rehabilitation and reuse of existing office, warehouse, industrial and commercial buildings; new office, residential and commercial construction; street and infrastructure improvements; creation of open space, landscaping and other appearance enhancements; and the provision of new amenities which both businesses and residents expect to find in a contemporary mixed use urban neighborhood.

The Project Area should have good accessibility and should be served by a street system and public transportation facilities that provide safe and convenient access to and circulation within the Project Area.

The Project Area should be characterized by a planned network of open spaces and public amenities which will organize and provide focus to the Project Area. An open space network should be created which links business centers, retail, residential development, open spaces, the river front, landscaped streets and surrounding amenities.

The Project Area should have a coherent overall design and character. Individual developments should be visually distinctive and compatible. The Project Area should respect the City's traditional downtown business district form which is characterized by a grid pattern of streets with buildings facing the street and located at or very near the front property line.

### *B. Land Use Plan*

Figure 2 presents the Land-Use Plan that will be in effect upon adoption of this Redevelopment Plan.

The Project Area's strategic location directly west of the Loop and east of Greek Town and the Kennedy and Eisenhower Expressways, creates an environment suitable for a mix of land uses. As indicated in Figure 2, the mix of land uses include: office, retail, residential, entertainment, cultural, government, institutional, open space and transportation. Several key factors have contributed to the appropriateness of the mixed use district within the Project Area and are listed below.

1. Adjacency to the Loop allows for an incremental expansion of the Loop while maintaining the compactness of the central business district.
2. Proximity to the expressways, commuter rail lines, numerous CTA bus routes, CTA Subway Station and the Loop has made the Project Area attractive for residential development, loft conversions, office and institutional developments.
3. Retail, entertainment, restaurants and open spaces are requisites for creating a viable urban neighborhood and attracting prospective residents and office tenants.

The combination of all the above uses creates a viable urban district full of energy and life, enabling a smooth transition between the densely developed Loop and the less dense Near West Side. A mixed-use district will establish a gradual functional and physical transition from the Loop's office towers to the surrounding neighborhoods.

The Land Use Plan highlights numerous opportunities for mixed use improvement, enhancement and new development within the Project Area. The Plan is focused on maintaining and enhancing sound and viable existing businesses, and promoting new business and residential development at selected locations.

Recommended land use strategies for specific subareas are presented in the following section of this Redevelopment Plan.

### *C. Planning Subareas*

The Project Area has been subdivided into five (5) subareas, each of which would be suitable for a different mix of uses and intensity of development, and each of which warrants a different approach to improvement and redevelopment (See Figure 3).

It should be emphasized that the boundaries of these subareas and the specification of uses within the subareas are for guidance only, and are subject to refinement and modification as a part of the City's planned development process.

Key recommendations for individual subareas are highlighted below. More specific development and design objectives for the Project Area are presented in a following section of this Redevelopment Plan.

#### *Subarea A*

Subarea A encompasses the northern portion of the Project Area and is generally bounded by the Kennedy Expressway on the west, Jefferson Street on the east, the alley south of Washington Street and Monroe Street on the north, and Adams Street on the south. The existing land uses include surface parking lots, a wall-paper distribution facility, and a restaurant.

As additional residential development occurs within and near the Project Area, open space, park facilities, a community center and educational institutions will be needed to serve the growing residential population. Subarea A is recommended for such uses. Currently there are no park facilities or community facilities within the Project Area or surrounding neighborhoods. Open space is designated in Figure 2: *Land Use Plan* for the block bounded by Monroe Street on the north, Adams Street on the south, Desplaines Street on the west and Jefferson Street on the east. In the event that an alternative location is developed as



open space, the designated block may be developed according to the land uses recommended for adjacent properties within the Mixed-Use District illustrated in Figure 2.

The current use of surface parking could be easily converted to open space and public uses. New facilities in this location would be easily accessible to the adjacent residences in Presidential Towers, St. Patrick's School, existing office buildings, and future residential and office developments. Also, if future development increases the demand for community facilities and services, Subarea A could serve as a possible development site for a community center.

Because Subarea A is adjacent to exits off the Kennedy Expressway, it is encouraged that long-term parking facilities be maintained and improved. Locating parking for downtown commuters on the periphery of downtown will help prevent heavy traffic congestion within the Loop.

#### *Subarea B*

Subarea B encompasses three areas within the Project Area. The first area is located at the northern end of the Project, and is generally bounded by Monroe Street on the north, Jefferson Street on the west, Adams Street on the south and Clinton Street on the east. The second area is the central portion of the Project Area, and is generally bounded by Adams Street on the north, Desplains Street on the west, Harrison Street on the south, and Canal Street on the east. The third area includes the vacant building located at the northeast corner of Canal and Jackson Streets.

Subarea B currently contains a mix of uses. Major existing uses include a number of office buildings ranging from one to ten stories, warehouse activity, several restaurants, various business service operations, a parking garage, a furniture outlet store, a barber, and surface parking lots. The Clinton/Harrison "Blue" Line Subway Station is located under Congress Parkway; this facility should be maintained and upgraded and more attractive passenger access should be provided from the north and south. The existing underground pedway system within the subarea should be extended to connect major transit facilities and future development within the surrounding area, providing access during inclement weather.

Subarea B is an older, established business area which has good regional accessibility and visibility, as well as access to the rail and public transit systems. While it is essentially built up, it does include several relatively large office buildings that are vacant or are not fully occupied and there are several surface parking lots within the subarea that should eventually be redeveloped into a higher use. However, since the surface parking lots located underneath Congress Parkway and the interchange utilize undevelopable space, they should be maintained and upgraded. In addition, there also are several marginal, obsolete and severely deteriorated properties that should be redeveloped.

Subarea B is recommended for a mix of uses including office, retail, entertainment, residential, hotels, institutional and open space. Retail and entertainment should be located on the first and second floors of the buildings to create a pedestrian-oriented environment and to help activate the street. If underutilized buildings are not needed for office or warehouse use, loft conversion is recommended.

#### *Subarea C*

Subarea C encompasses Union Station and is bounded by Adams Street on the north, Canal Street on the east, Clinton Street on the west, and Jackson Street on the south.

Union Station has been highlighted as a separate subarea because it serves a distinct purpose and possesses significant development potential. Union Station is a transportation hub for Amtrak and Metra rail lines and is the destination and departure point for thousands of commuters and intercity travelers on a daily basis. However, most of this activity is taking place on the underground levels of Union Station while the upper levels are predominantly vacant and poorly maintained. If sufficiently rehabilitated, Union Station represents a significant redevelopment opportunity.

Possible uses for Subarea C include retail, entertainment, cultural uses, transportation, restaurants, office, and hotel facilities. Union Station should be rehabilitated and maintained because it contributes to the architectural character of the Project Area and surrounding area. The rehabilitation of Union Station should take into consideration the future needs of both Amtrak and Metra passengers. Sufficient space for passenger facilities should be identified.

#### *Subarea D*

Subarea D encompasses the central west portion of the Project Area and is generally bounded by Gladys Street on the north, the Kennedy and Eisenhower Expressways on the west, Congress Parkway on the south, and Desplaines Street on the east. The existing uses are a pump house, vacant land, a fire station, a parking lot for an auto dealer, and a vacant substandard building.

The majority of Subarea D is poorly maintained and contains vacant land and marginal properties. These properties should be redeveloped for new business use, open space, a gateway to the West Loop, parking, CTA bus terminals or bus turnarounds to discourage bus queuing on surrounding streets. The existing fire station should be upgraded and maintained to sufficiently serve existing and future development within the Project Area and surrounding area. Because of the presence of the adjacent expressway, the majority of the property in Subarea D has limited size and a challenging configuration which lends itself to open space, a gateway to the West Loop, parking, and small-scale development.

*Subarea E*

Subarea E encompasses the former Main Post Office and is generally bounded by Van Buren Street on the north, Canal Street on the west, Harrison Street on the south, and the Chicago River on the east.

After postal operations relocated to a new facility at Canal Street and Polk Street, the former Main Post Office has been vacant for about four years. This architecturally significant building which was built between 1921 and 1933, offers over 2.4 million square feet of space which is available for reuse or redevelopment. Because of the sheer magnitude of the this property, it is recommended that the building be redeveloped as a mixed-use development since no one single use is likely to effectively utilize the available space. Within this mixed use framework, a multitude of uses would be appropriate including: office, retail, residential, entertainment, cultural, transportation, warehousing, institutional and government. The feasibility of a new entrance to the Clinton/Congress rapid transit station should be considered in future plans.

Track level platforms beneath the Post Office should be retained to provide sufficient capacity for the future growth in commuter rail and intercity service. Portions of the Post Office building, especially the former Post Office lobby, could be used for future passenger facilities if proposals by Illinois and other Midwestern states for expanded intercity rail service are realized. An interagency task force should be formed to recommend a comprehensive approach to rail terminal issues and their relation to development plans.

The enhancement of the Chicago River corridor in this subarea should be encouraged. Possible amenities should include a river walkway and a river gateway park at dock level.

*D. Development And Design Objectives*

Listed below are the specific Development and Design Objectives which will assist the City in directing and coordinating public and private improvement and investment within the Project Area in order to achieve the general goals and objectives identified in *Section II* of this Redevelopment Plan.

The Development and Design Objectives are intended to help attract a variety of desirable uses such as new business, institutional, commercial and residential development; foster a consistent and coordinated development pattern; and create an attractive urban identity for the Project Area.

**a) Land Use**

- Promote comprehensive, area-wide redevelopment of the Project Area as a planned mixed-use district, allowing a wide range of business, residential, retail, commercial services, public and institutional uses.
- Promote business retention and new employment development throughout the Project Area.
- Encourage the clustering of similar and supporting commercial uses to promote cumulative attraction and multi-stop shopping.
- Promote convenience retail and service uses that can provide for the day-to-day needs of nearby residents, employees and business patrons.

**b) Building and Site Development**

- Where feasible, repair and rehabilitate existing buildings in poor condition.
- Where rehabilitation is not feasible, demolish deteriorated existing buildings to allow for new development.
- Reuse vacant buildings in serviceable condition for new businesses, residential uses, or mixed-use development.
- Ensure that the design of new buildings is compatible with the surrounding building context.
- Preserve buildings with historic and architectural value where appropriate.
- Locate building service and loading areas away from front entrances and major streets where possible.
- Encourage parking, service, loading and support facilities which can be shared by multiple businesses.
- Encourage retail, entertainment, and restaurants on the first and second floors of buildings to create a pedestrian-oriented environment.
- Improve the design and appearance of commercial storefronts, including facade treatment, color, materials, awnings and canopies, and commercial signage.

**c) Transportation and Infrastructure**

- Ensure safe and convenient access to and circulation within the Project Area for pedestrians, bicyclists, autos, trucks and public transportation.

- Alleviate traffic congestion along arterial routes through limited driveways, shared loading zones, efficient bus stop spacing and traffic management improvements.
- Improve the street surface conditions, street lighting, and traffic signalization.
- Promote "transit-friendly" developments that incorporate transit facilities into their design.
- Create small "arrival" places or mini-plazas at the entrances to transit subway stations.
- Provide well-defined, safe pedestrian connections between developments within the Project Area and nearby destinations.
- Promote the development of river edge amenities and provide a continuous pedestrian corridor along the river.
- Extend the underground pedway system to connect major transit facilities, providing access during inclement weather.
- Upgrade public utilities and infrastructure as required.
- Protect passenger rail infrastructure and maintain flexibility to allow for growth in intercity and commuter rail transportation; develop plans that have flexibility to meet future needs.
- Protect track and platform capacity under Union Station and the old Post Office for expanded rail operations, including high - speed rail service.

d) Parking

- Ensure that all commercial/retail businesses are served by an adequate supply of conveniently located parking.
- Maintain curb parking on selected streets to serve the retail and commercial businesses.
- Promote shared parking through cooperative arrangements between businesses which would permit existing parking lots to be used by neighboring businesses during off-peak periods.
- Ensure that parking lots are attractively designed and adequately maintained.
- Promote the use of ground floor space within parking structures for retail or service businesses.

**e) Urban Design**

- Provide new pedestrian-scale lighting in areas with intense pedestrian activity.
- Provide new street trees and accent lighting where space permits.
- Promote high quality and harmonious architectural and landscape design within the mixed use district.
- Enhance the appearance of the Project Area by landscaping the major street corridors.
- Provide distinctive design features, including landscaping and signage, at the major entryways into the Project Area.
- Install streetpole banners throughout the Project Area to signal revitalization and reinvestment.
- Clean-up and maintain vacant land, particularly in highly visible locations; where possible, use vacant lots for open space or pocket parks.
- Promote the development of "public art" at selected locations.

**f) Landscaping and Open Space**

- Promote the use of landscaping to screen dumpsters, waste collection areas, and the perimeter of parking lots and other vehicular use areas.
- Use landscaping and attractive fencing to screen loading and service areas from public view.
- Promote a continuous landscaped open space area along the river corridor.
- Promote the development of shared open spaces within the Project Area, including courtyards, eating areas, recreational areas, etc.
- Ensure that all open spaces are designed, landscaped and lighted to achieve a high level of security.
- Ensure that all landscaping and design materials comply with the City of Chicago Landscape Ordinance.

***E. Redevelopment Improvements and Activities***

The City proposes to achieve its redevelopment goals and objectives for the Project Area through the use of public financing techniques including, but not limited to, tax increment fi-

nancing, to undertake some or all of the activities and improvements authorized under the Act, including the activities and improvements described below. The City also maintains the flexibility to undertake additional activities and improvements authorized under the Act, if the need for activities or improvements change as redevelopment occurs in the Project Area.

The City may enter into redevelopment agreements with public or private entities for the furtherance of this Redevelopment Plan. Such redevelopment agreements may be for the assemblage of land; the construction, rehabilitation, renovation or restoration of improvements or facilities; the provision of services; or any other lawful purpose. Redevelopment agreements may contain terms and provisions which are more specific than the general principles set forth in this Redevelopment Plan and which include affordable housing requirements as described below.

It is City policy to require that developers who receive TIF assistance for market rate housing set aside 20 percent of the units or commit to an alternative affordable housing option pursuant to Department of Housing Guidelines to meet affordability criteria established by the City's Department of Housing. Generally, this means the affordable for-sale units should be priced at a level that is affordable to persons earning no more than 120 percent of the area median income, and affordable rental units should be affordable to persons earning no more than 80% of the area median income.

#### 1. Property Assembly

To meet the goals and objectives of this Redevelopment Plan, the City may acquire and assemble property throughout the Project Area. Land assemblage by the City may be by purchase, exchange, donation, lease or eminent domain and may be for the purpose of (a) sale, lease or conveyance to private developers, or (b) sale, lease, conveyance or dedication for the construction of public improvements or facilities. Furthermore, the City may require written redevelopment agreements with developers before acquiring any properties.

Figure 4, *Land Acquisition Overview Map*, indicates the area currently proposed to be acquired for clearance and redevelopment in the Project Area. Figure 4a: *Land Acquisition by Block & Parcel Identification Number* illustrates the acquisition properties in more detail.

In connection with the City exercising its power to acquire real property not currently identified on the following Acquisition Map, including the exercise of the power of eminent domain, under the Act in implementing the Redevelopment Plan, the City will follow its customary procedures of having each such acquisition recommended by the Community Development Commission (or any successor commission) and

authorized by the City Council of the City. Acquisition of such real property as may be authorized by the City Council does not constitute a change in the nature of this Plan.

Land acquisition activities pursuant to the Land Acquisition Map will be initiated by the City within five years of the date of adoption of the Plan by the City.

As appropriate, the City may devote acquired property to temporary uses until such property is scheduled for disposition and redevelopment. The City may demolish improvements, remove and grade soils and prepare sites with soils and materials suitable for new construction. Clearance and demolition will, to the greatest extent possible, be timed to coincide with redevelopment activities so that tracts of land do not remain vacant for extended periods and so that the adverse effects of clearance activities may be minimized.

The City may (a) acquire any historic structure (whether a designated City or State landmark or on, or eligible for, nomination to the National Register of Historic Places); (b) demolish any non-historic feature of such structure; and (c) incorporate any historic structure or historic feature into a development on the subject property or adjoining property.

**2. Relocation**

Relocation assistance may be provided in order to facilitate redevelopment of portions of the Redevelopment Project Area and to meet other City objectives. Business or households legally occupying properties to be acquired by the City may be provided with relocation advisory and financial assistance as determined by the City.

**3. Provision of Public Works or Improvements**

The City may provide public improvements and facilities that are necessary to service the Project Area in accordance with this Redevelopment Plan and the comprehensive plan for development of the City as a whole. Public improvements and facilities may include, but are not limited to, the following:

*a) Streets and Utilities*

A range of individual roadway, utility and related improvement projects, from repair and resurfacing to major construction or reconstruction, may be undertaken.



*b) Parks and Open Space*

Improvements to existing or future parks, river walkways, open spaces and public plazas may be provided, including the construction of pedestrian walkways, stairways, lighting, landscaping and general beautification improvements may be provided for the use of the general public.

*c) Transportation Infrastructure*

Improvements and/or expansion of the existing CTA Transit Subway Station at Harrison Street and Clinton Street may be provided to support the increased demand resulting from future development within the Project Area.

Extension of the underground pedway system to connect major transit facilities within the Project Area, providing access during inclement weather, may be undertaken.

**4. Rehabilitation of Existing Buildings**

The City will encourage the rehabilitation of buildings that are basically sound and/or historically significant, and are located so as not to impede the Redevelopment Project.

**5. Job Training and Related Educational Programs**

Separate or combined programs designed to increase the skills of the labor force to meet employers' hiring needs and to take advantage of the employment opportunities within the Project Area may be implemented.

**6. Taxing Districts Capital Costs**

The City may reimburse all or a portion of the costs incurred by certain taxing districts in the furtherance of the objectives of this Redevelopment Plan.

**7. Interest Subsidies**

Funds may be provided to redevelopers for a portion of interest costs incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

- (a) such costs are to be paid directly from the special tax allocation fund established pursuant to the Act;
- (b) such payments in any-one year may not exceed 30 percent of the annual interest costs incurred by the redeveloper with respect to the redevelopment project during that year;

- (c) if there are not sufficient funds available in the special tax allocation fund to make the payment, then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund; and
- (d) the total of such interest payments paid pursuant to the Act may not exceed 30 percent of the total (i) costs paid or incurred by a redeveloper for a redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by the City pursuant to the Act.

**8. Analysis, Administration, Studies, Surveys, Legal, etc.**

The City may undertake or engage professional consultants, engineers, architects, attorneys, etc. to conduct various analyses, studies, surveys, administration or legal services to establish, implement and manage this Redevelopment Plan.

**F. Redevelopment Project Costs**

The various redevelopment expenditures which are eligible for payment or reimbursement under the Act are reviewed below. Following this review is a list of estimated redevelopment project costs which are deemed to be necessary to implement this Redevelopment Plan (the "Redevelopment Project Costs").

**1. Eligible Redevelopment Project Costs**

Redevelopment project costs include the sum total of all reasonable or necessary costs incurred, estimated to be incurred, or incidental to this Redevelopment Plan pursuant to the Act. Such costs may include, without limitation, the following:

- 1) Costs of studies, surveys, development of plans and specifications, implementation and administration of the redevelopment plan including but not limited to, staff and professional service costs for architectural, engineering, legal, marketing, financial, planning or other services, provided that no charges for professional services are based on a percentage of the tax increment collected;
- 2) Property assembly costs, including but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;
- 3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings and fixtures;
- 4) Costs of the construction of public works or improvements;
- 5) Costs of job training and retraining projects;

- 6) Financing costs including, but not limited to, all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for a period not exceeding 36 months following completion and including reasonable reserves related thereto;
- 7) All or a portion of a taxing district's capital costs resulting from a redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project to the extent the municipality by written agreement accepts and approves such costs;
- 8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or state law;
- 9) Payment in lieu of taxes as defined in the Act;
- 10) Costs of job training, advanced vocational education or career education, including but not limited to, courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken including but not limited to, the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40, and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of the School Code;
- 11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:
  1. such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;
  2. such payments in any one year may not exceed 30 percent of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

3. if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this provision, then the amount so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund; and
4. the total of such interest payments incurred pursuant to this Act may not exceed 30 percent of the total: (i) costs paid or incurred by the redeveloper for such redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act.

12) Unless explicitly provided in the Act, the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.

If a special service area has been established pursuant to the Special Service Area Tax Act, 35 ILCS 235/0.01 *et. seq.* then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act may be used within the redevelopment project area for the purposes permitted by the Special Service Area Tax Act as well as the purposes permitted by the Act.

## 2. Estimated Redevelopment Project Costs

A range of redevelopment activities and improvements will be required to implement this Redevelopment Plan. The activities and improvements and their estimated costs are set forth in Exhibit II of this Redevelopment Plan. All estimates are based on 1998 dollars. Funds may be moved from one line item to another or to an eligible cost category described in this Plan.

Redevelopment Project Costs described in this Redevelopment Plan are intended to provide an upper estimate of expenditures. Within this upper estimate, adjustments may be made in line items without amending this Redevelopment Plan.

## G. Sources of Funds to Pay Redevelopment Project Costs

Funds necessary to pay for Redevelopment Project Costs and secure municipal obligations issued for such costs are to be derived primarily from Incremental Property Taxes. Other sources of funds which may be used to pay for Redevelopment Project Costs or secure municipal obligations are land disposition proceeds, state and federal grants, investment income, private financing and other legally permissible funds the City may deem appropriate. The City may incur redevelopment project costs which are paid for from funds of the City other than incremental taxes, and the City may then be reimbursed from such costs from incremental taxes. Also, the City may permit the utilization of guarantees, deposits and other forms of security made available by private sector developers. Additionally, the City may utilize revenues, other

than State sales tax increment revenues, received under the Act from one redevelopment project area for eligible costs in another redevelopment project area that is either contiguous to, or is separated only by a public right-of-way from, the redevelopment project area from which the revenues are received.

The Project Area is contiguous to the River South TIF and is separated only by a public right of way from the Near West Tax Increment Financing Redevelopment Project Area and may, in the future, be contiguous or separated by only a public right of way to other redevelopment project areas created under the Act. The City may utilize net incremental property taxes received from the Project Area to pay eligible redevelopment project costs, or obligations issued to pay such costs, in other contiguous redevelopment project areas or project areas separated only by a public right of way, and vice versa. The amount of revenue from the Project Area made available to support such contiguous redevelopment project areas or those separated only by a public right of way, when added to all amounts used to pay eligible Redevelopment Project Costs within the Project Area, shall not at any time exceed the total Redevelopment Project Costs described in this Redevelopment Plan.

The Project Area may become contiguous to, or be separated only by a public right of way from, redevelopment project areas created under the Industrial Jobs Recovery Law (65 ILCS 5/11-74.6-1, et seq.). If the City finds that the goals, objectives and financial success of such contiguous redevelopment project areas or those separated only by a public right of way are interdependent with those of the Project Area, the City may determine that it is in the best interests of the City and in furtherance of the purposes of the Redevelopment Plan that net revenues from the Project Area be made available to support any such redevelopment project areas. The City therefore proposes to utilize net incremental revenues received from the Project Area to pay eligible redevelopment project costs (which are eligible under the Industrial Jobs Recovery Law referred to above) in any such areas and vice versa. Such revenues may be transferred or loaned between the Project Area and such areas. The amount of revenue from the Project Area so made available, when added to all amounts used to pay eligible Redevelopment Project Costs within the Project Area or other areas as described in the preceding paragraph, shall not at any time exceed the total Redevelopment Project Costs described in Table 1 of this Redevelopment Plan.

#### *H. Issuance of Obligations*

The City may issue obligations secured by Incremental Property Taxes pursuant to Section 11-74.4-7 of the Act. To enhance the security of a municipal obligation, the City may pledge its full faith and credit through the issuance of general obligation bonds. Additionally, the City may provide other legally permissible credit enhancements to any obligations issued pursuant to the Act.

All obligations issued by the City pursuant to this Redevelopment Plan and the Act shall be retired within 23 years from the adoption of the ordinance approving the Project Area and the Re-

development Plan, such ultimate retirement date occurring in the year 2021. Also, the final maturity date of any such obligations which are issued may not be later than 20 years from their respective dates of issue. One or more series of obligations may be sold at one or more times in order to implement this Redevelopment Plan. Obligations may be issued on a parity or subordinated basis.

In addition to paying Redevelopment Project Costs, Incremental Property Taxes may be used for the scheduled retirement of obligations, mandatory or optional redemptions, establishment of debt service reserves and bond sinking funds. To the extent that Incremental Property Taxes are not needed for these purposes, any excess Incremental Property Taxes shall then become available for distribution annually to taxing districts having jurisdiction over the Project Area in the manner provided by the Act.

#### **I. Valuation of the Project Area**

##### **1. Most Recent EAV of Properties in the Project Area**

The most recent 1997 EAV of all taxable parcels in the Project Area is estimated to be \$36,047,464. This EAV is based on 1997 EAV and is subject to verification by the County Clerk. After verification, the final figure shall be certified by the County Clerk. This certified amount shall become the Certified Initial EAV from which all Incremental Property Taxes in the Project Area will be calculated by the County.

##### **2. Anticipated Equalized Assessed Valuation**

By the tax year 2021 (collection year 2022) and following roadway and utility improvements, installation of additional and upgraded lighting, improved signage and landscaping, etc. and substantial completion of potential Redevelopment Projects, the EAV of the Project Area is estimated to total between \$204,000,000 and \$ 231,000,000. Both estimates are based on several key assumptions, including: 1) redevelopment of the Project Area will occur in a timely manner; 2) approximately 2,100,000 square feet of office/retail space will be constructed in the Project Area and occupied by 2021; 3) approximately 1,400,000 square feet of residential space will be constructed in the Project Area and occupied by 2021; 4) a hotel with approximately 150 rooms will be constructed in the Project Area and occupied by 2021; 5) an estimated annual inflation in EAV of 2 percent will be realized through 2021, and 6) the five year average state equalization factor of 2.1240 (tax years 1992 through 1996) is used in all years to calculate estimated EAV.

### **VI. LACK OF GROWTH AND DEVELOPMENT THROUGH INVESTMENT BY PRIVATE ENTERPRISE**

As described in *Section III* of this Redevelopment Plan, the Project Area as a whole is adversely impacted by the presence of numerous conservation and blight factors, and these factors are reasonably distributed throughout the Project Area. Conservation and blight factors within the Project Area are widespread and represent major impediments to sound growth and development.

The decline of and the lack of private investment in the Project Area are evidenced by the following:

**Physical Condition of the Project Area**

- The Project Area is characterized by age (91% of the buildings are 35 years or older), obsolescence, deterioration, structures below minimum code specifications, excessive vacancies, depreciation of physical maintenance, and an overall lack of community planning.
- In over five years between January 1993 and May 1998 the City's Building Department issued 18 building code violations to 18 different buildings within the Project Area. This is 56% of the total buildings within the Project Area.
- A majority of the Project Area's infrastructure (i.e. streets, alleys, curbs and gutters, street lighting and sidewalks) needs major repair or replacement.

**Lack of New Construction and Renovation by Private Enterprise**

- Within the last five years, no new buildings have been built in the Project Area. In this same time period, only three of the 32 buildings in the Project Area indicated significant building permit costs. The total building permit cost for these three buildings is \$2,034,080. Seventy-four percent (74%) of the total cost is attributable to interior renovations to the vacant hotel located at Harrison Street and Canal Street. Overall, the investment is very limited and scattered having little to no impact on the Project Area.
- Five warehouse structures have been demolished between January 1, 1993 and May 20, 1998 within the Project Area. This indicates a decline in business activity in the Project Area since these demolitions have not been replaced with new construction and the current use of the properties are surface parking lots.

**Lack of Investment and Growth by Private Enterprise**

- Between 1991 and 1997, the AV of the Project Area decreased from \$24,639,359 to \$16,774,845, a decrease of \$7,864,514 or 31.9 percent. Over this same period, the AV of the City as a whole increased by 16.25 percent. The majority of the significant decrease in AV is attributable to two buildings within the Project Area. The first building is the parking garage owned by Amtrak located at Jackson and Canal Streets which had an AV of \$4,939,999 in 1991 and then later became tax exempt. The AV of the second building, located at 547 West Jackson, was reduced by \$2,878,543 between 1991 and 1997 because it is owned and partially occupied by the public Commuter Rail Division of RTA. Excluding these two buildings from the analysis, the AV of the Project Area between 1991 and 1997 decreased \$45,972 or .27 percent.
- Between 1991 and 1997, the EAV of the Project Area decreased from \$50,567,356 to \$36,047,464, a decrease of \$14,519,892 or 28.7 percent. Over this same period, the EAV of the City as a whole increased by 21.7 percent. As stated in the above paragraph, the majority of the significant decrease in EAV is attributable to two buildings within the Project Area. Excluding these two buildings from the analysis, the EAV of the Project Area between 1991 and 1997 decreased \$1,526,099 or 4.4 percent.
- A significant number of buildings within the Project Area are vacant or underutilized. In particular, the Old Main Post Office has been vacant for almost four years, which

represents over 2.4 million square feet of undeveloped space. The building located at 444 West Jackson has been vacant for over 10 years, which totals over 80,000 square feet of undeveloped space. Also, Union Station has been approximately 60 percent vacant for over 15 years. In addition to the above mentioned buildings, close to 100,000 square feet of vacant space is reported to exist in six other buildings within the Project Area. This vacant space is evidence of the lack of growth and development within the Project Area.

The following impediments to redevelopment illustrate why the Project Area would not reasonably be anticipated to be developed on a comprehensive and coordinated basis without the intervention of the City and the adoption of this Redevelopment Plan.

- The sheer magnitude of the adaptive reuse component of the Redevelopment Project is a deterrent to private investment. In particular, the former Main Post Office alone, has over 2.4 million square feet of available space and approximately 60 percent of Union Station has been available for redevelopment for over 15 years. The building located at 444 W. Jackson Street has been vacant for over 10 years, and contains over 80,000 square feet of undeveloped space. Also, within the Project Area there are numerous vacant warehouse/light industrial buildings available for adaptive reuse.
- The costs associated with the adaptive reuse of the former Main Post Office which have historically been distribution in nature are prohibitive, especially for its size and magnitude of the historic buildings. These extraordinary costs rule out private investment by most developers.
- The costs associated with the adaptive reuse of the vacant building located at 444 W. Jackson Street are also prohibitive due to the design of the building. Since the building was specifically built to be a trading area, the design of the building does not lend itself to be easily converted into office space. Essentially, the building is an empty shell, obsolete in its design and space due to the excessive ceiling heights and open floors and contains interior components in a partially demolished condition and an obsolete mechanical system. The building's obsolete design, coupled with years of deferred maintenance, requires significant investment and rehabilitation to adapt the building for a marketable use.
- The architecturally and historically significant former Main Post Office facility will require substantial investment to preserve the structures, including the renovation and restoration of the exterior facades, replacement of windows, doors, masonry and all other exterior elements.
- Extensive sidewalk repairs, street lighting, landscaping and other infrastructure improvements are necessary to transform the Project Area into a pedestrian-friendly environment.

In summary, the Project Area is not yet a blighted area, but is deteriorating and declining and may become a blighted area. The Project Area on the whole has not been subject to growth and development through investment by private enterprise. The Project Area would not reasonably be anticipated to be developed without the adoption of this Redevelopment Plan for the Project Area.



## VII. FINANCIAL IMPACT

Without the adoption of the Redevelopment Plan and TIF, the Project Area is not reasonably expected to be redeveloped by private enterprise. In the absence of City-sponsored redevelopment initiatives, there is a prospect that conservation and blight factors will continue to exist and spread, and the Project Area on the whole and adjacent properties will become less attractive for the maintenance and improvement of existing buildings and sites. In the absence of City-sponsored redevelopment initiatives, erosion of the assessed valuation of property in and outside of the Project Area could lead to a reduction of real estate tax revenue to all taxing districts.

*Section V* of this Redevelopment Plan describes the comprehensive, area-wide Redevelopment Project proposed to be undertaken by the City to create an environment in which private investment can occur. The Redevelopment Project will be staged over a period of years consistent with local market conditions and available financial resources required to complete the various redevelopment improvements and activities as well as Redevelopment Projects set forth in this Redevelopment Plan. Successful implementation of this Redevelopment Plan is expected to result in new private investment in rehabilitation of buildings and new construction on a scale sufficient to eliminate problem conditions and to return the area to a long-term sound condition.

The Redevelopment Project is expected to have significant short- and long-term positive financial impacts on the taxing districts affected by this Redevelopment Plan. In the short-term, the City's effective use of TIF can be expected to stabilize existing assessed values in the Project Area, thereby stabilizing the existing tax base for local taxing agencies. In the long-term, after the completion of all redevelopment improvements and activities, Redevelopment Projects and the payment of all Redevelopment Project Costs and municipal obligations, the taxing districts will benefit from the enhanced tax base which results from the increase in EAV caused by the Redevelopment Projects.

## VIII. DEMAND ON TAXING DISTRICT SERVICES

The following major taxing districts presently levy taxes against properties located within the Project Area:

Cook County. The County has principal responsibility for the protection of persons and property, the provision of public health services and the maintenance of County highways.

Cook County Forest Preserve District. The Forest-Preserve District is responsible for acquisition, restoration and management of lands for the purpose of protecting and preserving open space in the City and County for the education, pleasure and recreation of the public.

Metropolitan Water Reclamation District of Greater Chicago. This district provides the main trunk lines for the collection of waste water from cities, villages and towns, and for the treatment and disposal thereof.

Chicago Community College District 508. This district is a unit of the State of Illinois' system of public community colleges, whose objective is to meet the educational needs of residents of the City and other students seeking higher education programs and services.

Board of Education of the City of Chicago. General responsibilities of the Board of Education include the provision, maintenance and operations of educational facilities and the provision of educational services for kindergarten through twelfth grade. No public schools are located in the Project Area.

Chicago Park District. The Park District is responsible for the provision, maintenance and operation of park and recreational facilities throughout the City and for the provision of recreation programs. There are no parks located within the Project Area.

Chicago School Finance Authority. The Authority was created in 1980 to exercise oversight and control over the financial affairs of the Board of Education.

City of Chicago. The City is responsible for the provision of a wide range of municipal services, including: police and fire protection; capital improvements and maintenance; water supply and distribution; sanitation service; building, housing and zoning codes, etc. A fire station is located within the Project Area and is illustrated in Figure 5, *Surrounding Community Facilities*.

City of Chicago Library Fund. General responsibilities of the Library Fund include the provision, maintenance and operation of the City's library facilities.

In addition to the major taxing districts summarized above, the Chicago Urban Transportation District, and the City of Chicago Special Service Area 12 have taxing jurisdiction over part or all of the Project Area. The Chicago Urban Transportation District (formerly a separate taxing district from the City) no longer extend tax levies, but continues to exist for the purpose of receiving delinquent taxes.

#### ***A. Impact of the Redevelopment Project***

The replacement of vacant and underutilized properties with business, residential, and other development may cause increased demand for services and/or capital improvements to be provided by the Metropolitan Water Reclamation District, the City, the Board of Education and the Chicago Park District. The estimated nature of these increased demands for services on these taxing districts are described below.

Metropolitan Water Reclamation District of Greater Chicago. The replacement of vacant and underutilized properties with new development may cause increased demand

for the services and/or capital improvements provided by the Metropolitan Water Reclamation District.

City of Chicago. The replacement of vacant and underutilized properties with new development may increase the demand for services and programs provided by the City, including police protection, fire protection, sanitary collection, recycling, etc.

Board of Education. The addition of new households with school-aged children to the Project Area may increase the demand for services and programs provided by the Board of Education. No public schools are located within the boundaries of the Project Area. The nearest public schools are the William Jones Metropolitan High School, the Andrew Jackson Language Academy, Skinner Elementary School and the Whitney Young Magnet High School, the closest of which is located approximately one mile outside the boundaries of the Project Area. The locations of these schools are illustrated in Figure 5, *Surrounding Community Facilities*.

A survey was recently completed of seven former industrial buildings in the greater South and West Loop areas which have been rehabilitated and converted to loft-type, residential developments (three rental buildings and four condominiums). Of the seven buildings surveyed, three contained households with children and four consisted solely of households with no children. Of the 655 total units within these seven buildings, only thirteen (2.0 percent) contained households with children. This preliminary survey did not identify the number of school-age children within the units that contained children. As these developments are believed to consist of units which are similar to the type proposed for the former warehouse and office buildings within the Project Area, it is expected that the households that may be added to the Project Area will contain few school-age children and that the impact of the Redevelopment Project on the Board of Education may be minimal.

Chicago Park District. The replacement of vacant and underutilized properties with residential, business and other development may increase the demand for services, programs and capital improvements provided by the Chicago Park District within and adjacent to the Project Area. These public services or capital improvements may include, but are not necessarily limited to, the provision of additional open spaces and recreational facilities by the Chicago Park District. Currently, there are no parks located within the Project Area. The nearest parks are Dearborn Park and Grant Park located approximately one mile east of the Project Area and Sheridan Park and Skinner Park located approximately one mile west of the Project Area. The locations of these parks are illustrated in Figure 5, *Surrounding Community Facilities*.

**B. *Program to Address Increased Demand for Services or Capital Improvements***

The following activities represent the City's program to address increased demand for services or capital improvements provided by the impacted taxing districts.

- It is expected that any increase in demand for treatment of sanitary and storm sewage associated with the Project Area can be adequately handled by existing treatment facilities maintained and operated by the Metropolitan Water Reclamation District. Therefore, no special program is proposed for the Metropolitan Water Reclamation District.
- It is expected that any increase in demand for City services and programs associated with the Project Area can be adequately handled by existing City, police, fire protection, sanitary collection and recycling services and programs maintained and operated by the City. Therefore, no special programs are proposed for the City.
- It is expected that the households that may be added to the Project Area will contain few school-aged children and, at this time, no special program is proposed for the Board of Education. The City and the Board of Education, will attempt to ensure that any increased demands for the services and capital improvements provided by the Board of Education are addressed in connection with any particular residential development in the Project Area.
- It is expected that the households and businesses that may be added to the Project Area may generate additional demand for recreational services and programs and may create the need for additional open spaces and recreational facilities operated by the Chicago Park District. The City intends to monitor development in the Project Area and, with the cooperation of the Chicago Park District, will attempt to ensure that any increased demands for the services and capital improvements provided by the Chicago Park District are addressed in connection with any particular residential and business development. One or more open space facilities will be provided to secure the needs of a rapidly expanding residential population and existing and future employees of the Project Area and nearby areas.
- It is expected that any increase in demand for Cook County, Cook County Forest Preserve District, and the Chicago Community College District 508's services and programs associated with the Project Area can be adequately handled by services and programs maintained and operated by these taxing districts. Therefore, at this time, no special programs are proposed for these taxing districts. Should demand increase so that it exceeds existing service and program capabilities, the City will work with the affected taxing district to determine what, if any, program is necessary to provide adequate services.

Exhibit II to this Redevelopment Plan illustrates the preliminary allocation of Redevelopment Project Costs.

## **IX. CONFORMITY OF THE REDEVELOPMENT PLAN FOR THE PROJECT AREA TO LAND USES APPROVED BY THE PLANNING COMMISSION OF THE CITY**

This Redevelopment Plan and the Redevelopment Project described herein include land uses which will be approved by the Chicago Plan Commission prior to the adoption of the Redevelopment Plan.

## **X. PHASING AND SCHEDULING**

A phased implementation strategy will be utilized to achieve comprehensive and coordinated redevelopment of the Project Area.

It is anticipated that City expenditures for Redevelopment Project Costs will be carefully staged on a reasonable and proportional basis to coincide with Redevelopment Project expenditures by private developers and the receipt of Incremental Property Taxes by the City.

The estimated date for completion of Redevelopment Projects is no later than the year 2021.

## **XI. PROVISIONS FOR AMENDING THIS REDEVELOPMENT PLAN**

This Redevelopment Plan may be amended pursuant to the Act.

## **XII. COMMITMENT TO FAIR EMPLOYMENT PRACTICES AND AFFIRMATIVE ACTION PLAN**

The City is committed to and will affirmatively implement the following principles with respect to this Redevelopment Plan:

- A) The assurance of equal opportunity in all personnel and employment actions, includ-

ing, but not limited to: hiring, training, transfer, promotion, discipline, fringe benefits, salary, employment working conditions, termination, etc., without regard to race, color, religion, sex, age, handicapped status, national origin, creed or ancestry.

B) This commitment to affirmative action will ensure that all members of the protected groups are sought out to compete for all job openings and promotional opportunities.

C) Redevelopers will meet City of Chicago standards for participation of Minority Business Enterprises and Woman Business Enterprises and the City Resident Construction Worker Employment Requirements as required in Redevelopment Agreements.

In order to implement these principles, the City shall require and promote equal employment practices and affirmative action on the part of itself and its contractors and vendors. In particular, parties engaged by the City shall be required to agree to the principles set forth in this section.

[Figure 1 referred to in this Canal/Congress Tax Increment Financing Redevelopment Project and Plan constitutes Exhibit "E" to the ordinance and is printed on page \_\_\_ of this Journal.]

[Figures 2, 3, 4, 4a -- Site 1, and 5 referred to in this Canal/Congress Tax Increment Financing Redevelopment Project and Plan printed on pages \_\_\_ through \_\_\_ of this Journal.]

[(Sub)Exhibit 1 referred to in this Canal/Congress Tax Increment Financing Redevelopment Project and Plan constitutes Exhibit "C" to the ordinance and is printed on pages \_\_\_ through \_\_\_ of this Journal.]

(Sub)Exhibits II, III and IV referred to in this Canal/Congress Tax Increment Financing Redevelopment Project and Plan read as follows:

*(Sub)Exhibit II.*  
 (To Canal/Congress Tax Increment Financing  
 Redevelopment Project And Plan)

*Estimated Redevelopment Project Costs.*

<u>ELIGIBLE EXPENSE</u>	<u>ESTIMATED COST</u>
<b>Analysis, Administration Studies, Surveys, Legal, Etc.</b>	\$ 2,500,000
<b>Property Assembly</b>	
- Acquisition	\$ 5,000,000
- Site Prep, Demolition and Environmental Remediation	\$10,000,000
<b>Rehabilitation of Existing Buildings</b>	\$43,000,000
<b>Public Works &amp; Improvements</b>	
- Streets and Utilities	\$ 6,000,000
- Parks and Open Space	\$ 9,000,000
<b>Taxing Districts Capital Costs</b>	\$ 1,200,000
<b>Relocation</b>	\$ 500,000
<b>Job Training</b>	\$ 5,000,000
<b>Developer/Interest Subsidy</b>	<u>\$ 6,500,000</u>
<b>TOTAL REDEVELOPMENT COSTS</b>	<b>\$88,700,000<sup>(1)</sup></b>

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<sup>(1)</sup> Total Redevelopment Project Costs exclude any additional financing costs, including any interest expense, capitalized interest and costs associated with optional redemptions. These costs are subject to prevailing market conditions and are in addition to Total Project Costs. Total Project Costs are inclusive of redevelopment project costs in contiguous redevelopment project areas that are permitted under the Act to be paid from incremental property taxes.

(Sub)Exhibit III.  
 (To Canal/Congress Tax Increment Financing  
 Redevelopment Project And Plan)

1997 Estimated E.A.V. By Tax Parcel.

Count	PIN	Estimated 1997 EAV	Rail Road or Exempt	Count	PIN	Estimated 1997 EAV	Rail Road or Exempt
1	17-09-339-005-0000	128,354	EX	42	17-16-106-012-0000	12,354	
2	17-09-339-006-0000	-	EX	43	17-16-106-016-0000	9,292	
3	17-09-339-007-0000	-	EX	44	17-16-106-017-0000	99,941	
4	17-09-339-010-0000	-	EX	45	17-16-106-018-0000	97,019	
5	17-09-339-011-0000	-	EX	46	17-16-106-019-0000	206,907	
6	17-09-339-012-0000	-	EX	47	17-16-106-021-0000	2,452	
7	17-09-339-013-0000	-	EX	48	17-16-106-022-0000	9,292	
8	17-09-339-014-0000	-	EX	49	17-16-106-025-0000	196,747	
9	17-09-339-015-0000	-	EX	50	17-16-106-026-0000	232,307	
10	17-16-100-019-0000	-	EX	51	17-16-106-030-0000	382,025	
11	17-16-100-020-0000	-	EX	52	17-16-106-033-0000	1,626,936	
12	17-16-100-031-8001	-		53	17-16-107-001-0000	137,895	
13	17-16-100-031-8002	6,180	EX	54	17-16-107-002-0000	193,113	
14	17-16-100-032-8001	-		55	17-16-107-003-0000	128,891	
15	17-16-100-032-8002	6,180	EX	56	17-16-107-004-0000	57,997	
16	17-16-100-033-8001	-		57	17-16-107-005-0000	57,997	
17	17-16-100-033-8002	12,537	EX	58	17-16-107-006-0000	64,441	
18	17-16-100-034-8001	-		59	17-16-107-007-0000	319,821	
19	17-16-100-034-8002	6,627	EX	60	17-16-107-008-0000	319,529	
20	17-16-100-035-8001	-		61	17-16-107-009-0000	160,755	
21	17-16-100-035-8002	4,410	EX	62	17-16-107-010-0000	321,555	
22	17-16-100-036-8001	-		63	17-16-107-012-0000	131,732	
23	17-16-100-036-8002	3,438	EX	64	17-16-107-013-0000	131,902	
24	17-16-100-037-8001	-		65	17-16-107-014-0000	131,732	
25	17-16-100-037-8002	5,381	EX	66	17-16-107-015-0000	438,410	
26	17-16-100-038-8001	-		67	17-16-107-016-0000	391,317	
27	17-16-100-038-8002	11,492	EX	68	17-16-107-017-0000	178,352	
28	17-16-100-039-8001	-		69	17-16-107-019-0000	159,309	
29	17-16-100-039-8002	15,451	EX	70	17-16-107-020-0000	244,513	
30	17-16-100-040-8001	-		71	17-16-107-022-0000	357,581	
31	17-16-100-040-8002	7,414	EX	72	17-16-111-001-0000	129,925	
32	17-16-100-041-8001	-		73	17-16-111-002-0000	76,439	
33	17-16-100-041-8002	1,440	EX	74	17-16-111-003-0000	80,272	
34	17-16-100-042-8001	-		75	17-16-111-004-0000	48,514	
35	17-16-100-042-8002	19,215	EX	76	17-16-111-005-0000	46,223	
36	17-16-100-043-0080	-		77	17-16-111-006-0000	46,223	
37	17-16-105-015-0000	456,254		78	17-16-111-007-0000	48,256	
38	17-16-105-027-0000	261,089		79	17-16-111-008-0000	98,495	
39	17-16-106-002-0000	65,047		80	17-16-111-009-0000	96,406	
40	17-16-106-003-0000	79,748		81	17-16-111-010-0000	87,069	
41	17-16-106-008-0000	223,853		82	17-16-111-011-0000	87,069	



<u>Count</u>	<u>PIN</u>	<u>Estimated 1997 EAV</u>	<u>Rail Road or Exempt</u>	<u>Count</u>	<u>PIN</u>	<u>Estimated 1997 EAV</u>	<u>Rail Road or Exempt</u>
83	17-16-111-012-0000	87,069		118	17-16-118-015-0000	1,009,014	
84	17-16-111-013-0000	87,069		119	17-16-118-016-0000	522,612	
85	17-16-111-014-0000	28,211		120	17-16-119-001-0000	-	EX
86	17-16-111-017-0000	127,802		121	17-16-119-002-0000	-	EX
87	17-16-111-019-0000	82,372		122	17-16-119-003-0000	225,377	
88	17-16-111-020-0000	497,313		123	17-16-119-004-0000	1,039,964	
89	17-16-111-021-0000	2,531,402		124	17-16-119-005-0000	370,107	
90	17-16-111-022-0000	-	EX	125	17-16-119-006-0000	-	EX
91	17-16-111-023-0000	1,626,666		126	17-16-119-007-0000	98,862	
92	17-16-111-024-0000	76,707		127	17-16-119-008-0000	128,603	
93	17-16-111-025-0000	109,431		128	17-16-119-009-0000	243,157	
94	17-16-111-026-0000	137,985		129	17-16-119-010-0000	104,093	
95	17-16-111-027-0000	72,029		130	17-16-119-011-0000	104,073	
96	17-16-113-002-0000	581,559		131	17-16-119-012-0000	160,970	
97	17-16-113-003-0000	761,383		132	17-16-119-013-0000	175,587	
98	17-16-113-009-0000	1,146,608		133	17-16-119-020-0000	142	
99	17-16-113-010-0000	3,556,759		134	17-16-119-021-0000	-	EX
100	17-16-114-003-0000	4		135	17-16-119-022-0000	-	EX
101	17-16-115-003-6001	-	RR	136	17-16-119-023-0000	-	EX
102	17-16-115-003-6030	-	EX	137	17-16-119-024-0000	-	EX
103	17-16-115-004-6001	-	RR	138	17-16-119-025-0000	-	EX
104	17-16-115-004-6003	-	EX	139	17-16-119-026-0000	-	EX
105	17-16-117-017-0000	-	EX	140	17-16-119-027-0000	-	EX
106	17-16-117-018-0000	141,389		141	17-16-119-028-0000	-	EX
107	17-16-117-019-0000	134,936		142	17-16-119-029-0000	-	EX
108	17-16-117-036-0000	67,108		143	17-16-119-030-0000	2	
109	17-16-117-037-0000	-	EX	144	17-16-119-031-0000	-	EX
110	17-16-117-038-0000	282,518		145	17-16-119-032-0000	2	
111	17-16-117-039-0000	-	EX	146	17-16-119-033-0000	-	EX
112	17-16-118-003-0000	133,017		147	17-16-119-034-0000	2	
113	17-16-118-004-0000	233,364		148	17-16-119-035-0000	-	EX
114	17-16-118-005-0000	251,608		149	17-16-119-036-0000	2	
115	17-16-118-006-0000	540,178		150	17-16-119-037-0000	-	EX
116	17-16-118-007-0000	-		151	17-16-119-038-0000	2	
117	17-16-118-008-0000	-		152	17-16-119-039-0000	-	EX
118	17-16-118-009-0000	-		153	17-16-119-040-0000	2	
119	17-16-118-010-0000	-		154	17-16-119-041-0000	-	EX
120	17-16-118-011-0000	-		155	17-16-119-042-0000	-	EX
121	17-16-118-012-0000	-		156	17-16-119-043-0000	-	EX
116	17-16-118-013-0000	970,071		157	17-16-119-044-0000	-	EX
117	17-16-118-014-0000	78,005		158	17-16-119-045-0000	-	EX

Count	PIN	Estimated 1997 EAV	Rail Road or Exempt	Count	PIN	Estimated 1997 EAV	Rail Road or Exempt
159	17-16-119-046-0000	-	EX	200	17-16-129-020-0000	48,733	
160	17-16-119-047-0000	-	EX	201	17-16-129-021-0000	48,733	
161	17-16-119-048-0000	2		202	17-16-129-022-0000	57,786	
162	17-16-119-049-0000	-	EX	203	17-16-129-023-0000	48,733	
163	17-16-119-050-0000	2		204	17-16-129-024-0000	115,381	
164	17-16-119-051-0000	-	EX	205	17-16-129-048-0000	-	EX
165	17-16-119-052-0000	4		206	17-16-129-049-0000	99,778	
166	17-16-119-053-0000	-	EX	207	17-16-129-057-0000	-	EX
167	17-16-119-054-0000	4		208	17-16-129-059-0000	-	EX
168	17-16-119-055-0000	4		209	17-16-129-061-0000	-	EX
169	17-16-119-056-0000	4		210	17-16-129-063-0000	-	EX
170	17-16-119-057-0000	4		211	17-16-129-067-0000	-	EX
171	17-16-119-058-0000	4		212	17-16-129-069-0000	-	EX
172	17-16-119-059-0000	4		213	17-16-129-072-0000	-	EX
173	17-16-119-060-0000	4		214	17-16-129-074-0000	-	EX
174	17-16-119-061-0000	4		215	17-16-129-076-0000	-	EX
175	17-16-120-008-8001	-	EX	216	17-16-129-079-0000	-	EX
176	17-16-120-008-8002	5,817		217	17-16-129-081-0000	1,084,380	
177	17-16-120-008-8003	5,817		218	17-16-129-082-8001	-	EX
178	17-16-120-009-0000	1,170,972		219	17-16-129-082-8002	8,733	
179	17-16-120-010-0000	-	EX	220	17-16-129-083-8001	-	EX
180	17-16-122-034-0000	-	EX	221	17-16-129-083-8002	8,733	
181	17-16-122-035-0000	-	EX	222	17-16-129-084-8001	-	EX
182	17-16-122-044-0000	-	EX	223	17-16-129-084-8002	10,353	
183	17-16-122-045-0000	-	EX	224	17-16-129-085-8001	-	EX
184	17-16-122-046-0000	-	EX	225	17-16-129-085-8002	10,353	
185	17-16-125-006-8001	-	EX	226	17-16-129-086-0000	1,381,854	
186	17-16-125-006-8002	8,299		227	17-16-130-001-0000	-	RR
187	17-16-125-011-0000	-		228	17-16-130-002-0000	-	EX
188	17-16-126-001-0000	1,956,679		229	17-16-130-004-0000	-	EX
189	17-16-126-013-0000	2,024,318		230	17-16-130-005-0000	-	EX
190	17-16-126-015-8001	-	EX	231	17-16-500-035-8001	-	EX
191	17-16-126-015-8002	16,048		232	17-16-500-035-8002	9,558	
192	17-16-129-012-0000	97,986		233	17-16-500-036-8001	-	EX
193	17-16-129-013-0000	97,986		234	17-16-500-036-8002	7,158	
194	17-16-129-014-0000	97,986		235	17-16-500-037-8001	-	EX
195	17-16-129-015-0000	97,986		236	17-16-500-037-8002	45,703	
196	17-16-129-016-0000	115,340		237	17-16-500-057-8003	12,440	
197	17-16-129-017-0000	118,778					
198	17-16-129-018-0000	118,778					
199	17-16-129-019-0000	49,996					
<b>Total Estimated 1997 EAV \$</b>						<b>36,047,464</b>	

Figure 2.  
(To Canal/Congress Tax Increment Financing  
Redevelopment Project And Plan)

Land-Use Plan.

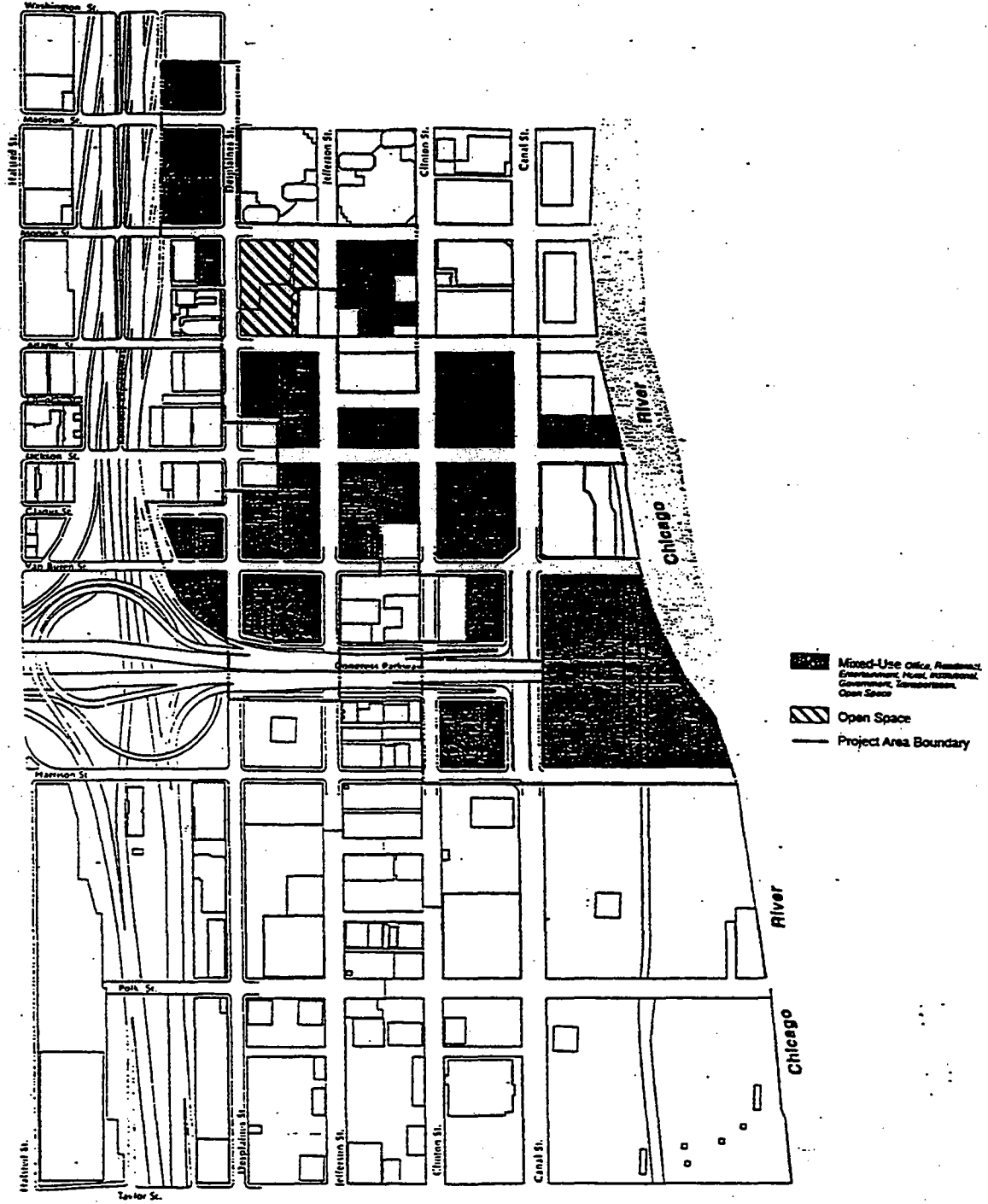


Figure 3.  
(To Canal/Congress Tax Increment Financing  
Redevelopment Project And Plan)

Subarea Plan.

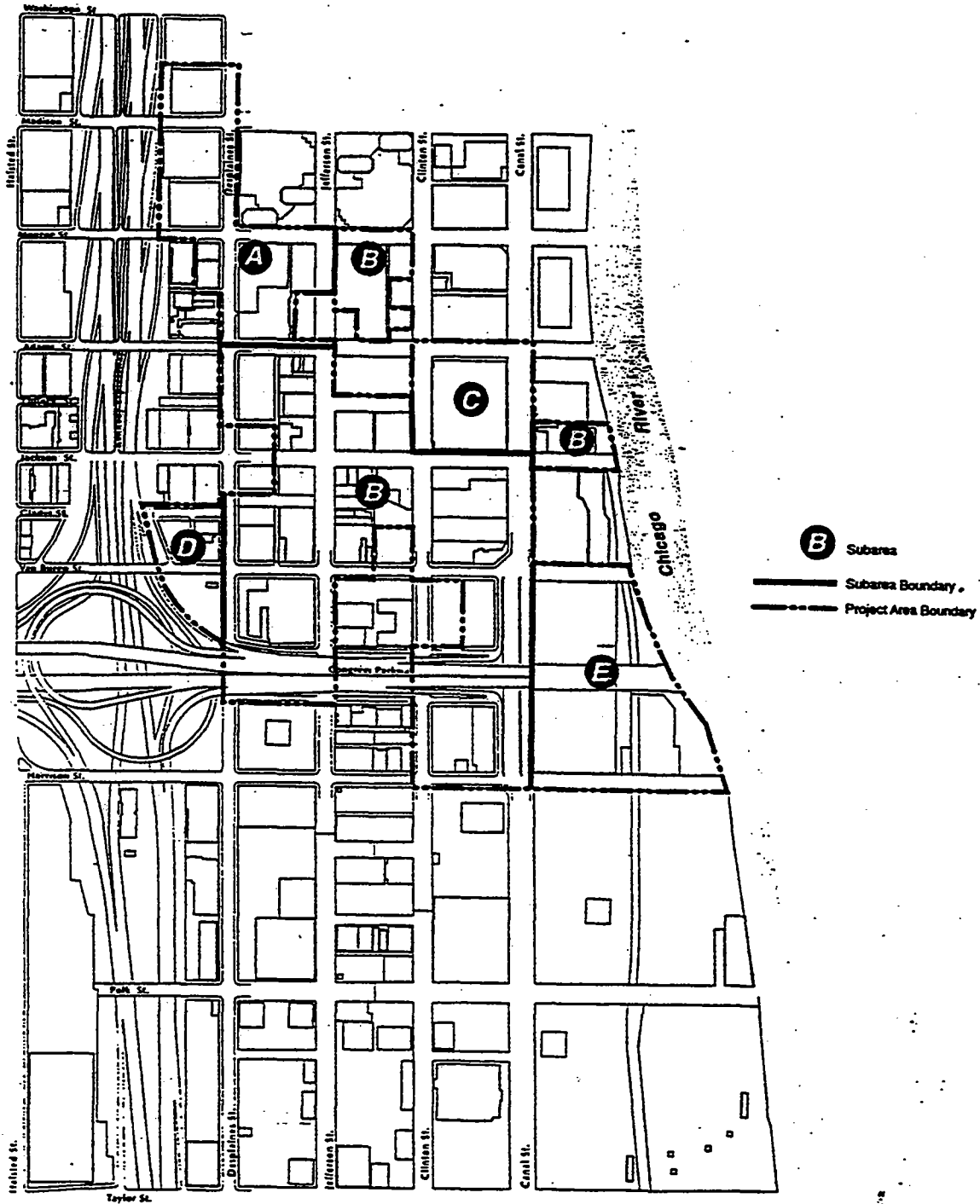


Figure 4.  
(To Canal/Congress Tax Increment Financing  
Redevelopment Project And Plan)

Land Acquisition Overview.

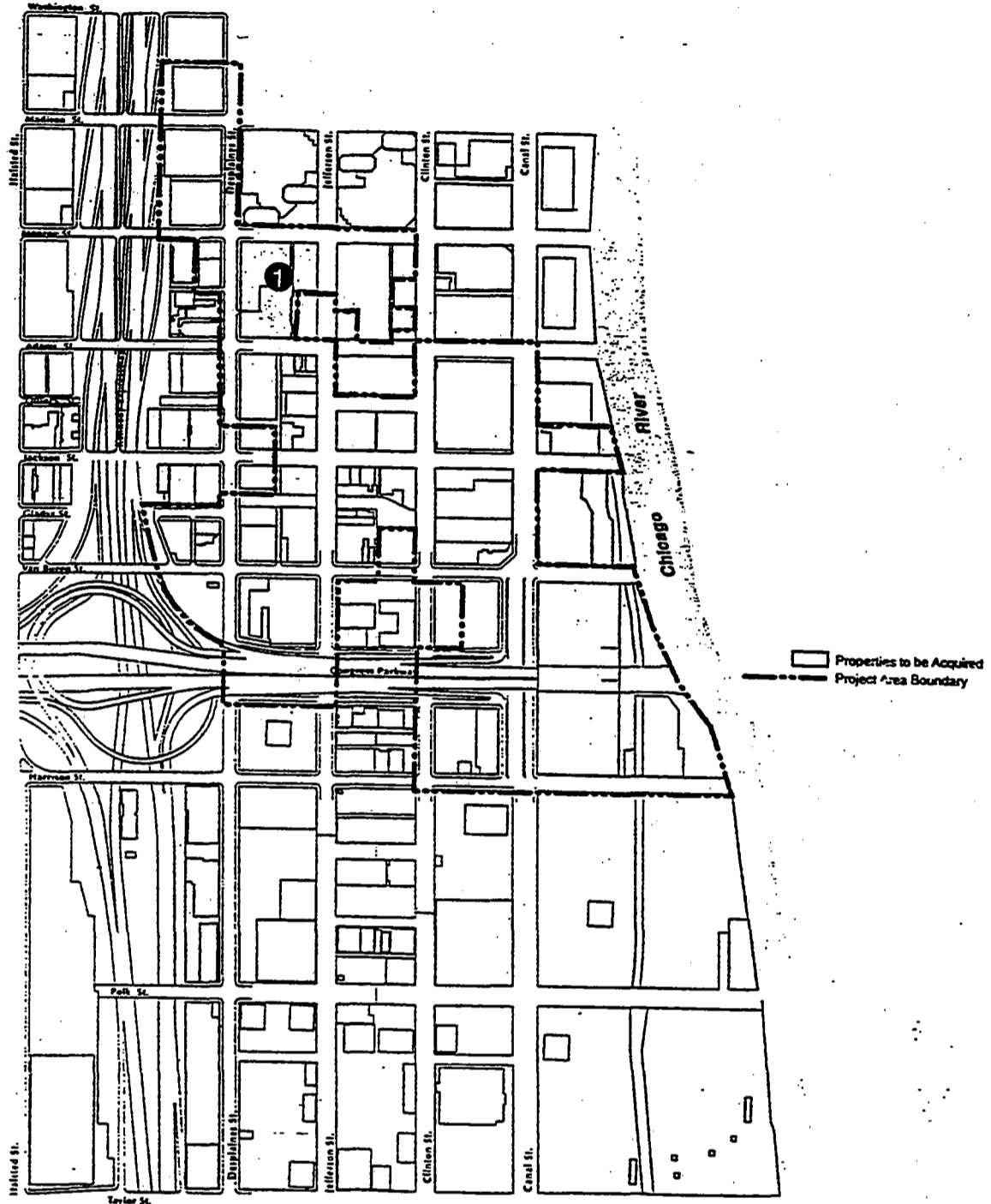


Figure 4a - Site 1.  
(To Canal/Congress Tax Increment Financing  
Redevelopment Project And Plan)

Land Acquisition By Block And Parcel Identification Number.

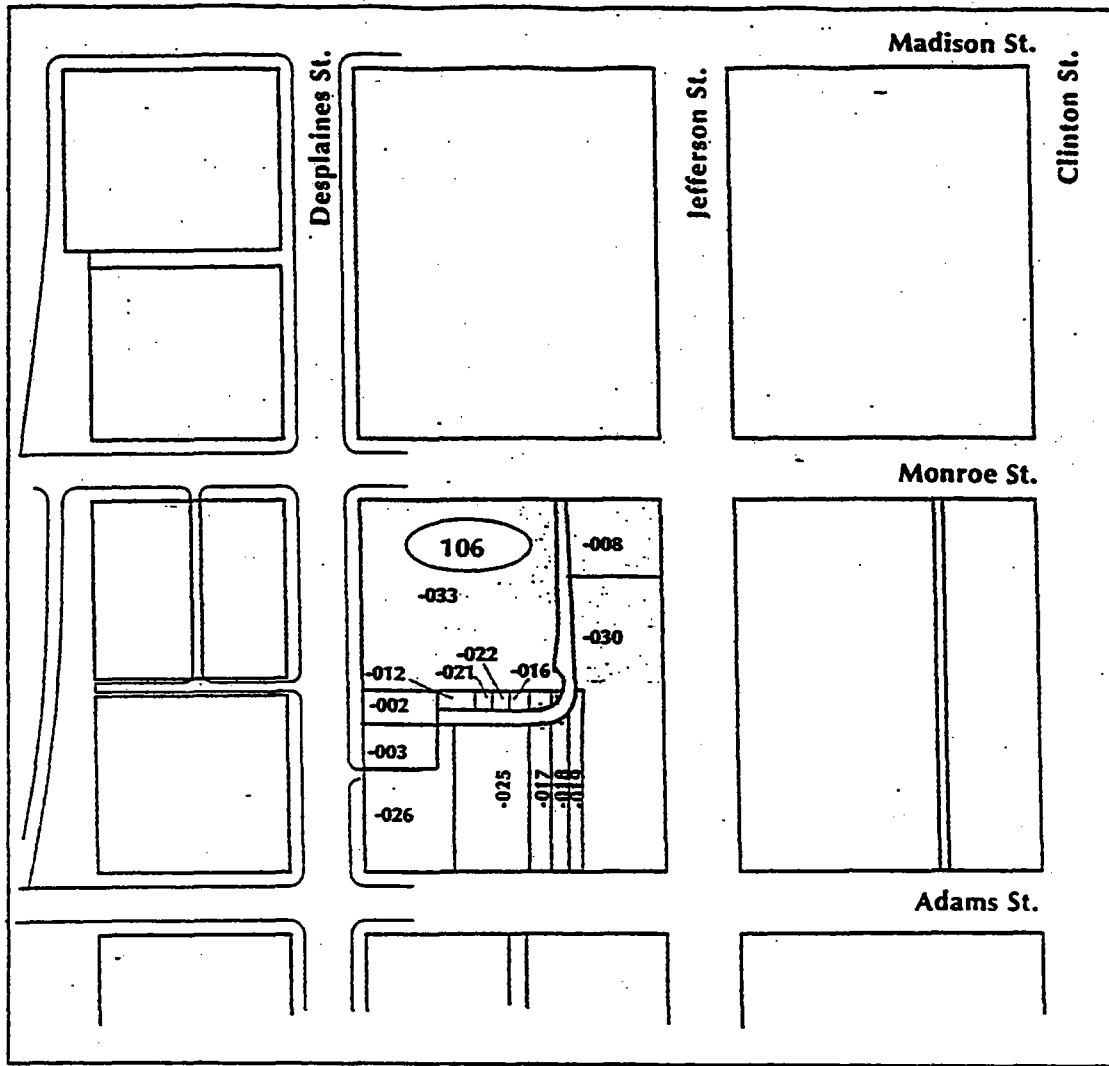


Figure 5.  
(To Canal/Congress Tax Increment Financing  
Redevelopment Project And Plan)

*Surrounding Community Facilities.*

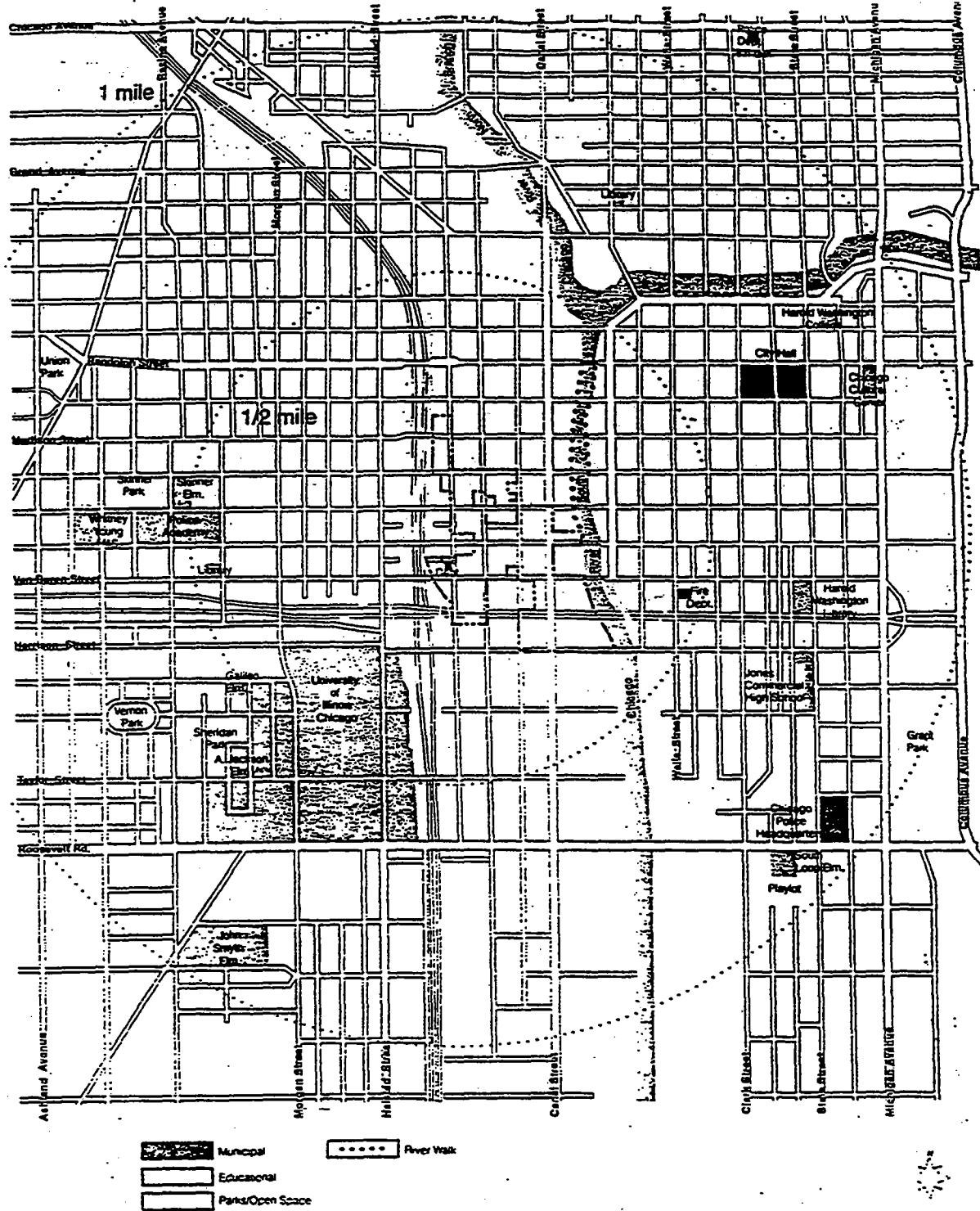


Figure 5  
*Surrounding Community Facilities*

(Sub)Exhibit IV.  
(To Canal/Congress Tax Increment Financing  
Redevelopment Project And Plan)

*Canal/Congress Project Area Tax Increment  
Financing Eligibility Study.*

## I. EXECUTIVE SUMMARY

The purpose of this study entitled *Canal/Congress Redevelopment Project Area Eligibility Study* (the "Eligibility Study") is to document the conservation factors that are present within the Canal/Congress Redevelopment Project Area (the "Project Area"), and to determine whether the Project Area qualifies for designation as a "conservation area" within the definitions set forth in the Illinois *Tax Increment Allocation Redevelopment Act 65 ILCS 5/11-74.4, et. seq.*, as amended (the "Act").

The Project Area is located west of the City of Chicago's (the "City") central business district (the "Loop"), contains approximately 41.3 acres within seventeen (17) whole and partial blocks, and is generally bounded on the north by Madison, Monroe and Adams Streets; on the south by Congress Parkway and Harrison Street; on the east by Clinton and Canal Streets and the South Branch of the Chicago River; and on the west by the Kennedy Expressway and Desplaines Street. The boundary of the Project Area is illustrated in Figure 1, *Project Area Boundary*. A more detailed description of the Project Area is presented in the Redevelopment Plan and Project

The determination of whether the Project Area qualifies for designation as a redevelopment project area and for use of tax increment financing pursuant to the Act is made by the City following careful review and consideration of the conclusions contained in the Redevelopment Plan and Eligibility Study. The conclusions contained in the Eligibility Study are based on an analysis of conditions and conservation factors found to be present within the Project Area. The documentation, analysis and conclusion of conservation factors are based on surveys and analyses conducted by R. M. Chin & Associates, Inc. ("RMCA") and Trkla, Pettigrew, Allen & Payne, Inc. ("TPAP") during May, June, and July 1998.

The basis for designating an area as a redevelopment project area and adopting the use of tax increment financing is described in Section II, *Basis for Redevelopment*, and summarized briefly below. The summary which follows is limited to a discussion of the eligibility criteria for a conservation area.

As set forth in the Act, a "redevelopment project area" must be not less than 1½ acres, and the municipality must make a finding that there exist conditions which cause the area to be classified as a conservation area. A "conservation area" means any improved area within the boundaries of a redevelopment project area in which 50 percent or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but because of a combination of 3 or more of the following factors--dilapidation; obsolescence; deterioration; illegal use of



individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; or lack of community planning--is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area.

While it may be concluded that the mere presence of the minimum number of the stated factors in the Act may be sufficient to make a finding that there exist conditions which cause the area to be classified as a conservation area, the conclusions contained in the Eligibility Study are made on the basis that the conservation factors must be present to an extent which would lead reasonable persons to conclude that public intervention is appropriate or necessary. Secondly, the conservation factors must be reasonably distributed throughout the Project Area so that basically good areas are not arbitrarily found to be conservation areas simply because of proximity to areas which are found to be conservation areas.

On the basis of this approach, the Project Area is found to be eligible as a conservation area within the conservation area definition set forth in the Act. Specifically:

- Ninety-one (91) percent of the 33 buildings in the Project Area are 35 years of age or older.
- Of the 14 conservation area factors set forth in the Act, nine factors are found to be present. These factors include dilapidation, obsolescence, deterioration, structures below minimum code standards, excessive vacancies, lack of light, ventilation, and sanitary facilities, deleterious land-use or layout, depreciation of physical maintenance and lack of community planning.
- All blocks within the Project Area show the presence of conservation factors.
- Six of the factors present within the Project Area are found to be present to a major extent and are reasonably distributed throughout the Project Area. These factors are obsolescence, deterioration, structures below minimum code, excessive vacancies, depreciation of physical maintenance and lack of community planning.
- Three of the factors present within the Project Area are found to be present to a limited extent and are not widely distributed throughout the Project Area. These factors are dilapidation; lack of light, ventilation and sanitary facilities, and deleterious land use or layout.
- All blocks within the Project Area are not yet blighted, but because of the combination of conservation factors present within the Project Area, are detrimental to the public safety, health, morals or welfare and may become blighted.
- The Project Area includes only real property and improvements that will be substantially benefited by the proposed redevelopment project improvements.

The conclusions of the eligibility analyses indicate that the Project Area is in need of revitalization and guided growth to ensure that it will contribute to the long-term physical, economic, and social stability of the City. The analyses indicate that all blocks within the Project Area are not yet blighted areas, but are deteriorating and declining and may become blighted areas. The combination of factors present indicate that the Project Area as a whole has not been subject to growth and development through investment by private enterprise, and would not reasonably be anticipated to be developed without public action, including designating the Project Area as a redevelopment project area pursuant to the Act and adopting the use of tax increment financing to stimulate private investment.

Section III, *Eligibility Analysis and Conclusions*, contains a summary of the physical surveys conducted within the Project Area and the conclusions of the eligibility analyses undertaken to assist the City in determining whether the Project Area qualifies for designation as a redevelopment project area and use of tax increment financing pursuant to the Act.

## II. BASIS FOR REDEVELOPMENT

The Illinois General Assembly made two key findings in adopting the Act:

1. That there exists in many municipalities within the State blighted and conservation areas; and
2. That the eradication of blighted areas and the treatment and improvement of conservation areas by redevelopment projects are essential to the public interest.

These conclusions were made on the basis that the presence of blight or conditions which lead to blight are detrimental to the safety, health, welfare and morals of the public.

To ensure that the exercise of these powers is proper and in the public interest, the Act also specifies certain requirements which must be met before a municipality can proceed with implementing a redevelopment project. One of these requirements is that the municipality must demonstrate that a prospective redevelopment project qualifies either as a "blighted area" or as a "conservation area" within the definitions for each set forth in the Act (in Section 11-74.4-3). These definitions are listed below.

As set forth in the Act, a "redevelopment project area" means an area designated by the municipality which is not less in the aggregate than 1½ acres, and in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted and conservation areas. The Project Area exceeds the minimum acreage requirements of the Act.

**ELIGIBILITY OF A BLIGHTED AREA**

A blighted area may be either improved or vacant. If the area is improved (e.g., with industrial, commercial and residential buildings or improvements), a finding may be made that the area is blighted because of the presence of a combination of five or more of the following fourteen factors:

- Age
- Dilapidation
- Obsolescence
- Deterioration
- Illegal use of individual structures
- Presence of structures below minimum code standards
- Excessive vacancies
- Overcrowding of structures and community facilities
- Lack of ventilation, light, or sanitary facilities
- Inadequate utilities
- Excessive land coverage
- Deleterious land-use or lay-out
- Depreciation of physical maintenance
- Lack of community planning.

If the area is vacant, it may be found to be eligible as a blighted area based on the finding that the sound growth of the taxing districts is impaired by one of the following criteria:

- A combination of two or more of the following factors: obsolete platting of the vacant land; diversity of ownership of such land; tax and special assessment delinquencies on such land; flooding on all or part of such vacant land; deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.
- The area immediately prior to becoming vacant qualified as a blighted improved area.
- The area consists of an unused quarry or unused quarries.
- The area consists of unused railyards, rail tracks or railroad rights-of-way.
- The area, prior to the area's designation, is subject to chronic flooding which adversely impacts on real property which is included in or in proximity to any improvement on real property which has been in existence for at least five years and which substantially contributes to such flooding.
- The area consists of an unused disposal site, containing earth, stone, building debris or similar material, which were removed from construction, demolition, excavation or dredge

sites.

- The area is not less than 50 nor more than 100 acres and 75% of which is vacant, notwithstanding the fact that such area has been used for commercial agricultural purposes within five years prior to the designation of the redevelopment project area, and which area meets at least one of the factors itemized in the first bullet item above for a vacant blighted area, and the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

#### **ELIGIBILITY OF A CONSERVATION AREA**

A conservation area is an improved area in which 50 percent or more of the structures in the area have an age of 35 years or more and there is a presence of a combination of three or more of the fourteen factors listed below. Such an area is not yet a blighted area, but because of a combination of three or more of these factors, the area may become a blighted area.

- Dilapidation
- Obsolescence
- Deterioration
- Illegal use of individual structures
- Presence of structures below minimum code standards
- Abandonment
- Excessive vacancies
- Overcrowding of structures and community facilities
- Lack of ventilation, light, or sanitary facilities
- Inadequate utilities
- Excessive land coverage
- Deleterious land-use or lay-out
- Depreciation of physical maintenance
- Lack of community planning.

While the Act defines a blighted area and a conservation area, it does not define the various factors for each, nor does it describe what constitutes the presence or the extent of presence necessary to make a finding that a factor exists. Therefore, reasonable criteria should be developed to support each local finding that an area qualifies as either a blighted area or as a conservation area. In developing these criteria, the following principles have been applied:

1. The minimum number of factors must be present and the presence of each must be documented;

2. For a factor to be found present, it should be present to a meaningful extent so that a local governing body may reasonably find that the factor is clearly present within the intent of the Act; and
3. The factors should be reasonably distributed throughout the redevelopment project area.

It is also important to note that the test of eligibility is based on the conditions of the Project Area as a whole; it is not required that eligibility be established for each and every property in the Project Area. While it may be concluded that the mere presence of the minimum number of the stated factors may be sufficient to make a finding of conservation or blight, the evaluation contained in the Eligibility Study was made on the basis that the conservation or blighting factors must be present to an extent which would lead reasonable persons to conclude that public intervention is appropriate or necessary. Secondly, the distribution of conservation or blighting factors throughout the Project Area must be reasonable so that basically good areas are not arbitrarily found to be conservation areas or blighted simply because of proximity to areas which are conservation or blighted areas.

### III. ELIGIBILITY ANALYSIS AND CONCLUSIONS

RMCA and TPAP conducted various surveys within the Project Area of existing conditions and land uses. Figure 2, *Existing Land Uses*, illustrates the various existing land uses within the Project Area. In conducting the surveys, Project Area conditions were documented and tabulated by the types of conservation factors listed in the Act. An analysis was made of each of the conservation area factors to determine the locations and extent to which each of the factors are present in the Project Area. Listed below are the types of surveys and analyses conducted by RMCA and TPAP.

1. Exterior survey of the condition and use of each building;
2. Interior building survey of 24 of the 33 buildings within the Project Area (interior access for 9 buildings was not available);
3. Site surveys of streets, alleys, sidewalks, curbs and gutters, lighting, parking facilities, landscaping, fences and walls, and general property maintenance;
4. Analysis of existing uses and their relationships;
5. Comparison of interior and exterior building conditions to property maintenance codes of the City;
6. Analysis of current parcel configuration and building size and layout;
7. Analysis of vacant sites and vacant buildings;
8. Analysis of building permits issued for the Project Area from January 1993 through May 1998;
9. Analysis of code violations recorded for the Project Area from January 1993 through May 1998; and
10. Review of previously prepared plans, transportation policies, studies and data.

Figure 3, *Interior/Exterior Survey Form*, presents the survey form used to record building conditions. An exterior survey was conducted on all 33 buildings located within the Project Area and an interior inspection was conducted on 24 buildings which RMCA and TPAP were able to gain sufficient access to conduct interior surveys.

Summarized below are a summary of the physical surveys conducted within the Project Area, and a summary of the eligibility analyses conducted for each of the 14 conservation area factors listed in the Act. The conditions that exist and the relative extent to which each factor is present in the Project Area are described. A factor noted as not present indicates either that no information was available or that no evidence could be documented as part of the various surveys and analyses. A factor noted as present to a limited extent indicates that conditions exist which document that the factor is present, but that the distribution or impact of the conservation or blight condition is limited. Finally, a factor noted as present to a major extent indicates that conditions exist which document that the factor is present throughout major portions of the block, and that the presence of such conditions has a major adverse impact or influence on adjacent and nearby development.

#### A. AGE

Age is a prerequisite factor in determining an area's qualification for designation as a conservation area. Age presumes the existence of problems or limiting conditions resulting from normal and continuous use of structures over a period of years. Since building deterioration and related structural problems can be a function of time, temperature, moisture and level of maintenance over an extended period of years, structures which are 35 years or older typically exhibit more problems and require greater maintenance than more recently constructed buildings. Furthermore, a serious concern exists for the presence of asbestos containing materials (ACM) and lead-based paint (LBP). Any thermal system insulation or surfacing material, such as floor and ceiling tiles, present in a building constructed before 1981 (17 years old) is likely to contain asbestos, and any building constructed before 1978 (20 years old) is likely to contain lead-based paint.

#### Conclusion

Of the 33 buildings within the Project Area, 30, or 91 percent, are 35 years of age or older. The Project Area meets the conservation area prerequisite that more than 50 percent of the structures are 35 years of age or older.

Figure 4, *Age*, illustrates the location of all buildings in the Project Area which are more than 35 years of age. This factor is widely distributed throughout the Project Area.

## B. DILAPIDATION

Dilapidation refers to advanced disrepair of buildings and site improvements. Webster's New Collegiate Dictionary defines "dilapidate," "dilapidated" and "dilapidation" as follows:

- *Dilapidate*, "... to become or cause to become partially ruined and in need of repairs, as through neglect."
- *Dilapidated*, "... falling to pieces or into disrepair; broken down; shabby and neglected."
- *Dilapidation*, "... dilapidating or becoming dilapidated; a dilapidated condition."

To determine the existence of dilapidation, an assessment was undertaken of all buildings within the Project Area. The process used for assessing building conditions, the standards and criteria used for evaluation, and the findings as to the existence of dilapidation are presented below.

The building condition analysis is based on exterior building inspections undertaken during May, June, and July of 1998. In addition, interior surveys of 24 buildings were conducted.

### 1. Building Components Evaluated.

During the field survey, each component of a building was examined to determine whether it was in sound condition or had minor, major, or critical defects. Building components examined were of three types:

#### Primary Structural

These include the basic elements of any building: foundation walls, load bearing walls and columns, roof and roof structure.

#### Secondary Components

These components are generally secondary to the primary structural components and are necessary parts of the building, including porches and steps, windows and window units, doors and door units, chimneys, gutters and downspouts.

#### Mechanical Components

The mechanical systems found in a building include plumbing, electrical, heating and elevator systems. Although less frequently encountered in buildings in residential areas, air conditioning and ventilation, and fire protection systems are also building systems. Since the functions of the mechanics in any building are unlike the functions of primary or secondary structural components and have dissimilar defects, the building systems are evaluated in terms of ten common deficiencies. The ten common defects used for evaluation are; lacking (non-existence of a building system), inadequate service, obsolete, missing parts, leaking, exposed (unprotected surfaces), poor distribution, improper location, improper connections, and deterioration.

Each primary, secondary, and mechanical component (when possible) was evaluated separately as a basis for determining the overall condition of individual buildings. This evaluation considered the relative importance of specific components within a building, and the effect that deficiencies in the various components have on the remainder of the building.

## 2. Building Rating Classifications

Based on the evaluation of building components, each building was rated and classified into one of the following categories:

### Sound

Buildings which contain no defects, are adequately maintained, and require no treatment outside of normal maintenance as required during the life of the building.

### Deficient

Buildings which contain defects (loose or missing material or holes and cracks) over either limited or widespread areas which may or may not be correctable through the course of normal maintenance (depending on the size of the building or number of buildings in a large complex). Deficient buildings contain defects which, in the case of limited or minor defects, clearly indicate a lack of or a reduced level of maintenance. In the case of major defects, advanced defects are present over widespread areas, perhaps including mechanical systems, and would require major upgrading and significant investment to correct.

### Dilapidated

Buildings which contain major defects in primary and secondary components and mechanical systems over widespread areas and within most of the floor levels. The defects are so serious and advanced that the building is considered to be substandard, requiring improvements or total reconstruction which may either be infeasible or difficult to correct.

### Conclusion

Of the 33 buildings within the Project Area, one (1) building is in a substandard (dilapidated) condition. The factor of dilapidation of buildings is present to a limited extent in the Project Area. Figure 5, *Dilapidation*, illustrates the location of the substandard building in the Project Area.

Site improvement dilapidation is limited to the west border of the Project Area, including instances of major dilapidation. Major dilapidation of site improvements is generally located in two of the seventeen (17) blocks within the Project Area. Considerable improvement, including total reconstruction, is required in these blocks to eliminate dilapidation.



### C. OBSOLESCENCE

Webster's New Collegiate Dictionary defines "obsolescence" as "being out of use; obsolete." "Obsolete" is further defined as "no longer in use; disused" or "of a type or fashion no longer current." These definitions are helpful in describing the general obsolescence of buildings or site improvements in a proposed redevelopment project area. In making findings with respect to buildings, it is important to distinguish between functional obsolescence, which relates to the physical utility of a structure, and economic obsolescence, which relates to a property's ability to compete in the market place.

#### Functional Obsolescence

Historically, areas have been platted and structures have been built for specific uses or purposes. The design, location, height, and space arrangement are intended for a specific occupant at a given time. Sites and buildings become obsolete when they contain characteristics or deficiencies which limit their use and marketability after the original use ceases. The characteristics may include loss in value to a property resulting from an inherent deficiency existing from poor design or layout, the improper orientation of the building on its site, *etc.*, which detracts from the overall usefulness or desirability of a property.

#### Economic Obsolescence

Economic obsolescence is normally a result of adverse conditions which cause some degree of market rejection and, hence, depreciation in market values.

Site improvements, including sewer and water lines, public utility lines (gas, electric and telephone), roadways, parking areas, parking structures, sidewalks, curbs and gutters, lighting, *etc.*, may also evidence obsolescence in terms of their relationship to contemporary development standards for such improvements. Factors of obsolescence may include inadequate utility capacities, outdated designs, *etc.*

Obsolescence as a factor should be based upon the documented presence and reasonable distribution of buildings, parcels and site improvements evidencing such obsolescence.

#### 1. Obsolete Building Types

Functional or economic obsolescence in buildings, which limits their long-term use or reuse, is typically difficult and expensive to correct. Deferred maintenance, deterioration and vacancies often result, which can have an adverse effect on nearby and surrounding development and detract from the physical, functional and economic vitality of the area.

Functional obsolescence of buildings is present throughout the Project Area. The Project Area contains buildings characterized by obsolescence in 13 of the 17 blocks, fourteen blocks of which contain buildings. Characteristics observed in the obsolete buildings include the following:

- Small, narrow buildings with limited floor plates;
- Single purpose buildings designed for a specific use which are not easily adaptable or suited to other uses;
- Buildings where stairs, elevators and common hall areas occupy an excessive amount of floor space;
- Buildings with inadequate column spacing or floor plans which limit space divisions;
- Buildings with inefficient or outdated mechanical systems, including the lack of central air conditioning, small elevators or the lack of freight elevators and limited lighting;
- Buildings which lack or have limited fire and life safety provisions, and which would be difficult to upgrade to code compliance;
- Lack of or inadequate loading facilities;
- Buildings with single-pane windows and limited insulation, resulting in high energy loss;
- Lack of ADA (American with Disabilities Act) access provisions at entry areas, elevators and in bathrooms.

## 2. Obsolete Platting

The Project Area was originally platted before the turn of the century, and is characterized by obsolete platting. Examples include: small, narrow lots; oddly configured parcels, streets and alleys; parcels of inadequate size or shape to allow development of buildings that meet present-day development standards and market conditions; lack of off-street parking, loading and service areas; and lack of set-back provisions to permit exterior landscaping. Some blocks may still contain their original obsolete platting. However, as a result of consolidation of parcels by one owner, some problems of obsolete platting are reduced. Nevertheless, there remains nine of the nineteen blocks impacted by obsolete platting.

### Conclusion

Thirty (30) of the 33 buildings in the Project Area (91 percent) are impacted by obsolescence which limits their functional or economic use. Six (6) of the seventeen (17) blocks (or 35 percent) are impacted by obsolete platting. Overall, obsolescence is present to a limited extent in three (3) of the seventeen (17) blocks and to a major extent in eleven (11) of the seventeen (17) blocks. Obsolescence as a factor is present to a major extent in the Project Area.

Figure 6, *Obsolescence*, illustrates the location of obsolete buildings and obsolete platting in the Project Area.

#### D. DETERIORATION

Deterioration refers to any physical deficiencies or disrepair in buildings or site improvements requiring treatment or repair.

- Deterioration may be evident in basically sound buildings containing minor defects, such as lack of painting, loose or missing materials, or holes and cracks over limited areas. This deterioration can be corrected through normal maintenance.
- Deterioration which is not easily correctable and cannot be accomplished in the course of normal maintenance may also be evident in buildings. Such buildings may be classified as minor deficient or major deficient buildings, depending upon the degree or extent of defects. Minor deficient and major deficient buildings are characterized by defects in the secondary building components (e.g., doors, windows, fire escapes, gutters and downspouts, fascia materials, etc.), and defects in primary building components (e.g., foundations, exterior walls, floors, roofs, etc.), respectively.

It should be noted that all buildings and site improvements classified as dilapidated are also deteriorated.

##### Deterioration of Alleys

Alleys within the Project Area, specifically near the northern boundary, are badly deteriorated. Alley deterioration is characterized by broken, potholed and uneven surfaces, as well as cobblestone surfaces in disrepair, with eroding asphalt patches.

##### Deterioration of Street Pavement, Curbs and Gutters.

Streets and sidewalks vary in their condition throughout the Project Area. The entire Project Area is spotted by conditions of deterioration. Several streets along the northern border of the Project Area require total reconstruction. Resurfacing of several streets is required throughout the Project Area.

##### Deterioration of Buildings

The analysis of building deterioration is based on the survey methodology and criteria described in the preceding section on "Dilapidation." Twenty-eight (28) of the thirty-three (33) buildings in the Project Area, or 85 percent, are classified as deteriorating or deteriorated, including one (1) that is dilapidated.

**Conclusion**

Deterioration as a factor is present to a major extent in the Project Area. Twenty-eight (28) buildings, or 85 percent of the buildings within the Project Area are classified as deteriorating or deteriorated. Deterioration of site improvements is found in alleys and streets, and parking lots within the Project Area. Curbs, gutters and sidewalks are similarly deteriorated. Three blocks within the Project Area have alleys characterized as deteriorated. Nearly all alleys within the surveyed area lack adequate storm sewer drainage and 31 of 32 blocks (97%) within the Project Area contain some form of deterioration. Overall, deterioration is present to a limited extent in five (5) of the seventeen (17) blocks and to a major extent in ten (10) of the seventeen (17) blocks.

Table 1, *Summary of Building Deterioration*, summarizes building deterioration within the blocks containing buildings in the Project Area. Figure 7, *Deterioration*, illustrates the location of deterioration within the Project Area.

**Table 1: Summary of Building Deterioration**

Tax Block No.	No. Of Buildings	Building Condition		
		Sound	Deteriorated/ Deteriorating	Substandard/ Dilapidated
339	0	0	0	0
100	0	0	0	0
105	2	1	1	0
106	1	0	1	0
107	0	0	0	0
111	7	1	6	0
113	1	0	2	0
114	1	0	1	0
115	1	0	1	0
117	2	0	1	1
118	2	0	2	0
119	8	1	7	0
120	1	1	0	0
122	1	0	1	0
126	1	0	1	0
129	2	1	1	0
130	2	0	2	0
<b>Project Area Total</b>	<b>33</b>	<b>5</b>	<b>27</b>	<b>1</b>
<b>Percent</b>	<b>100.0</b>	<b>15.2</b>	<b>81.8</b>	<b>3.0</b>

### E. ILLEGAL USE OF INDIVIDUAL STRUCTURES

Illegal use of individual structures refers to the presence of uses or activities which are not permitted by law.

#### Conclusion

No illegal uses of individual structures were evident from the field surveys conducted.

### F. PRESENCE OF STRUCTURES BELOW MINIMUM CODE STANDARDS

Structures below minimum code standards include all structures which do not meet the standards of subdivision, building, housing, property maintenance, fire, or other governmental codes applicable to the property. The principal purposes of such codes are to require buildings to be constructed so that they will be strong enough to support the loads expected, to be safe for occupancy against fire and similar hazards, and/or to establish minimum standards essential for safe and sanitary habitation. Structures below minimum code are characterized by defects or deficiencies which threaten health and safety.

Determination of the presence of structures below minimum code standards was based upon an exterior survey of all 33 buildings and interior surveys of 24 buildings for which TPAP and RMCA could gain sufficient access. Twenty-seven (27) of the 33 buildings surveyed were found to be below minimum code standards either on the basis of code related defects on the interior, or in combination with the exterior with regards to access into the buildings.

The following non-compliance conditions are examples of code violations found to be present within the Project Area:

- Lack of ADA (Americans with Disabilities Act) accessibility requirements, including accessibility into buildings, lobbies and elevators; undersized vestibules, elevators; elevators without floor identification for the visually impaired; and restrooms without proper access width and special hardware; alarms; signage; and etc.
- Ceilings in habitable areas lower than 8 feet, and exposed ceilings in fire-rated areas.
- Improper wiring, exposed wiring and junction boxes, extension cords, and old brittle cloth-cased wiring.
- Open stairs or enclosed stairs without proper B-label fire rated doors or lack of panic hardware and closers.
- Lack of or inoperable sprinkler or fire alarm systems.
- Unsanitary conditions, dusty conditions, and flammable storage in vacant or underutilized areas.
- Lack of exit signs and/or other life safety appurtenances.

The presence of code violations is further supported by code violation records maintained by the City. Information with respect to code compliance for the Project Area was provided to TPAP by the City of Chicago, Department of Buildings on buildings for which the City had issued violations during the period January 1, 1993 through May 1998. During this period, building code violations were listed by address and street name. Of the 33 buildings in the Project Area, 18, or 55 percent, were identified as being in violation of code standards.

#### Conclusion

The factor of structures below minimum code standards is present to a major extent within the Project Area. A total of twenty-seven (27) buildings, or 82 percent of the 33 buildings in the Project Area are below minimum code standards. Overall, the presence of structures below minimum code is present to a limited extent in four (4) of the seventeen (17) blocks and to a major extent in nine (9) of the seventeen (17) blocks.

Figure 8, *Structures Below Minimum Code*, illustrates the location of buildings and site improvements which are below minimum code standards.

#### G. ABANDONMENT

Abandonment as a factor applies only to conservation areas. Webster's New Collegiate Dictionary defines "abandon" as "to give up with the intent of never again claiming one's right or interest"; or "to give over or surrender completely; to desert."

#### Conclusion

Based on the analysis of properties within the Project Area, abandonment as a factor is not found to be present.

#### H. EXCESSIVE VACANCIES

Excessive vacancies as a factor refers to the presence of buildings or sites which are either unoccupied or not fully utilized, and which exert an adverse influence on the surrounding area because of the frequency or duration of vacancies. Excessive vacancies include properties for which there is little expectation for future occupancy or utilization.

Excessive building vacancies are found throughout the Project Area. Vacancies are especially prevalent in older, poorly maintained buildings, and buildings characterized by obsolescence. Information regarding vacancies in individual buildings was obtained from interior and exterior building surveys conducted by TPAP and RMCA.

**Conclusion**

The factor of excessive vacancies is present to a major extent in the Project Area. Nineteen (19) buildings, or 58 percent of the total buildings in the Project Area contain vacancies of 20 percent or greater. In addition, there are five (5) buildings of the total 33 buildings which are totally vacant in the Project Area. Overall, excessive vacancies is present to a limited extent in seven (7) of the seventeen (17) blocks and to a major extent in five (5) of the seventeen (17) blocks.

Figure 9, *Excessive Vacancies*, illustrates the location of buildings in the Project Area which are 20 percent or more vacant.

**I. OVERCROWDING OF STRUCTURES AND COMMUNITY FACILITIES**

Overcrowding of structures and community facilities refers to the utilization of public or private buildings, facilities, or properties beyond their reasonable or legally permitted capacity. Overcrowding is frequently found in buildings originally designed for a specific use and later converted to accommodate a more intensive use without adequate regard for minimum floor area requirements, privacy, ingress and egress, loading and services, capacity of building systems, etc.

**Conclusion**

No conditions of overcrowding of structures and community facilities have been documented as part of the exterior or interior surveys undertaken within the Project Area.

**J. LACK OF VENTILATION, LIGHT, OR SANITARY FACILITIES**

Lack of ventilation, light, or sanitary facilities refers to substandard conditions which adversely affect the health and welfare of building occupants, e.g., residents, employees, or visitors. Typical requirements for ventilation, light, and sanitary facilities include:

- Adequate mechanical ventilation for air circulation in spaces/rooms without windows. i.e., bathrooms, and rooms that produce dust, odor or smoke;
- Adequate natural light and ventilation by means of skylights or windows, proper window sizes, and adequate room area to window area ratios; and
- Adequate sanitary facilities, i.e., garbage storage/enclosure, bathroom facilities, hot water, and kitchens.

**Conclusion**

The factor of lack of ventilation, light, or sanitary facilities is present to a minor extent in the Project Area. A total of 5 buildings, or 15 percent of the 33 buildings in the Project Area are below ventilation, light, and/or sanitary standards. Overall, lack of ventilation, light, or sanitary facilities is

present to a limited extent in one (1) of the seventeen (17) blocks and to a major extent in two (2) of the seventeen (17) blocks.

Figure 10, *Lack of Ventilation, Light, or Sanitary Facilities*, illustrates the location of buildings in the Project Area which exhibit this factor.

#### K. INADEQUATE UTILITIES

Inadequate utilities refers to deficiencies in the capacity or condition of utilities which service a property or area, including, but not limited to, storm drainage, water supply, electrical power, streets, sanitary sewers, gas and electricity.

##### Conclusion

No determination of existing utilities and conditions of inadequate utilities has been documented as part of the surveys and analyses undertaken within the Project Area.

#### L. EXCESSIVE LAND COVERAGE

Excessive land coverage refers to the over-intensive use of land by buildings or facilities than can reasonably be accommodated by the site and supporting public infrastructure. Excessive land coverage can be manifested by various physical factors including, but not limited to, improperly situated buildings, parcels of inadequate size or shape, inadequate provisions for off-street parking, loading and service areas, and inadequate ingress/egress. One or several of these factors can result in insufficient provision for light and air, increased threat of the spread of fires due to close proximity of buildings, traffic circulation conflicts along public rights-of-way, improperly parked or illegally parked vehicles, and excessive vacancies due to inadequate loading and service areas for tenants.

While existing lot sizes, lot coverages, off-street parking and loading provisions, and building setback and yard requirements may not comply with the current zoning practices of the City, the Project Area developed prior to existing zoning requirements, and are similar to other older, developed sections of the downtown area.

##### Conclusion

No determination of excessive land coverage has been documented as part of the survey and analyses undertaken within the Project Area. However, many of the blighting factors that often result from excessive land coverage are found to be present throughout the Project Area.



### M. DELETERIOUS LAND-USE OR LAYOUT

Deleterious land-uses include all instances of incompatible land-use relationships, buildings occupied by inappropriate mixed uses, and uses which may be considered noxious, offensive or otherwise environmentally unsuitable.

Deleterious layout includes oddly configured buildings by themselves or in relation to other buildings. Also, deleterious layout includes improper or obsolete platting of the land, inadequate street layout, and parcels of inadequate size or shape to allow development of buildings that meet present-day development standards and market conditions, including the provision of off-street parking, floor areas and internal circulation to accommodate modern office configurations, off-street loading and service areas and landscape provisions.

#### Conclusion

The factor of deleterious land use or layout is present to a minor extent in the Project Area. A total of 10 buildings, or 30 percent of the 33 buildings in the Project Area are found to be deleterious in land use. A total of seven (7) blocks, or 47 percent of the seventeen (17) full or partial blocks contained in the Project Area are impacted by deleterious layout. The factor of deleterious layout is present to a major extent in four blocks and to a minor extent in three blocks. Overall, deleterious land use or layout is present to a limited extent in eight (8) of the seventeen (17) blocks.

Figure 11, *Deleterious Land-Use or Layout*, illustrates the location of the presence of deleterious land-use and layout.

### N. DEPRECIATION OF PHYSICAL MAINTENANCE

Depreciation of physical maintenance refers to the deferred maintenance of buildings, parking areas and public improvements such as alleys, sidewalks and streets.

The presence of this factor within the Project Area includes:

- Buildings. Of the 33 buildings in the Project Area, 18 suffer from deferred maintenance of windows, doors, store fronts, exterior walls, cornices, fire escapes, steps, loading docks, fascias or mechanical systems.
- Streets, alleys, sidewalks, curbs and gutters. Depreciation of physical maintenance of streets, alleys, sidewalks, curbs and gutters is located throughout the Project Area, with the greatest concentration in the western portion of the Project Area.
- Parking surface and site surface areas. Depreciation of physical maintenance of parking

surface and site surface areas is located throughout the Project Area, with the greatest concentrations in the western portion of the Project Area.

#### **Conclusion**

The depreciation of physical maintenance of buildings and site improvements as a factor is present to a major extent in the Project Area. Eighteen (18) or 55 percent of buildings and approximately 50 percent of site improvements suffer from deferred maintenance. Overall, depreciation of physical maintenance is present to a limited extent in three (3) of the seventeen (17) blocks and to a major extent in nine (9) of the seventeen (17) blocks.

Figure 12, *Depreciation of Physical Maintenance*, illustrates the location of the presence of depreciation of physical maintenance in the Project Area.

#### **O. LACK OF COMMUNITY PLANNING**

With very few exceptions, most of the blocks were platted and buildings were constructed in the Project Area prior to the existence of the City's plans which are referenced in the Redevelopment Plan, to which this Eligibility Study is attached. The Project Area was originally platted and developed on a parcel-by-parcel and building-by-building basis, with little evidence of coordination and planning among buildings and adjacent land-use activities. Lack of community planning prior to development has contributed to some of the problem conditions which characterize the overall Project Area.

The overall Project Area is characterized by blocks containing a mix of building sizes, configurations and types which were constructed during different time frames. Blocks with oddly configured structures and parcels have created under-utilized areas, oddly configured alleys and parking surfaces, inadequate loading and service areas, and inadequate placement or provisions of parking and community facilities.

#### **Conclusion**

The factor of lack of community planning is present to a major extent throughout the Project Area.

#### IV. DETERMINATION OF PROJECT AREA ELIGIBILITY

##### CONSERVATION AREA

The Project Area meets both the minimum size and building age requirements of the Act for designation as a "conservation area." The Project Area contains approximately 41.3 acres which exceeds the minimum size requirement of 1 and 1/2 acres. Additionally, 30 of the 33 buildings (or 91 percent) in the Project Area are 35 years or older, thereby exceeding the 50 percent requirement contained in the Act.

In addition to age, nine (9) of the fourteen (14) factors are present in the Project Area and six (6) of those factors are present to a major extent and are reasonably distributed throughout the Project Area. The nine (9) factors present within the Project Area are listed below, and those that are present to a major extent and reasonably distributed are indicated by an asterisk.

1. Dilapidation
2. Obsolescence \*
3. Deterioration \*
4. Structures below minimum code standards \*
5. Excessive vacancies \*
6. Lack of light, ventilation, and sanitary facilities
7. Deleterious land-use
8. Depreciation of physical maintenance \*
9. Lack of Community Planning \*

*\* Indicates that the conservation factor is present to a major extent and reasonably distributed throughout the Project Area.*

None of the blocks within the Project Area are blighted. However, they are deteriorating and declining and may become blighted. A summary of conservation factors by block is contained in Table 2, *Distribution of Conservation Factors* and in Figure 13, *Summary of Conservation Factors*.

The eligibility findings indicate that the Project Area is in need of revitalization and guided growth to ensure that it will contribute to the long-term physical, economic, and social well-being of the City. The Project Area is deteriorating and declining. All factors indicate that the Project Area as a whole has not been subject to growth and development through investment by private enterprise, and would not reasonably be anticipated to be developed without public action.

**Table 2: Distribution of Conservation Factors**

<u>Conservation Factors</u>	<u>BLOCK NUMBERS</u>								
	<u>100</u>	<u>105</u>	<u>106</u>	<u>107</u>	<u>111</u>	<u>113</u>	<u>114</u>	<u>115</u>	<u>117</u>
Age		■	■		■	■	■		■
<u>Other Factors</u>									
1. Dilapidation									□
2. Obsolescence	□	■	■	■	■	■	■	■	■
3. Deterioration	□	□	■	□	■	■	■	■	■
4. Illegal use of individual structures									
5. Structures below minimum code		■	■		■	■	■	□	■
6. Abandonment									
7. Excessive vacancies		□	■		□	■	■	■	□
8. Overcrowding of structures and community facilities									
9. Lack of ventilation, light or sanitary facilities						■			
10. Inadequate utilities									
11. Excessive land coverage									
12. Deleterious land-use or layout	□		□	■	□				
13. Depreciation of physical maintenance	□		■	□	□	■	■	■	■
14. Lack of community planning	■	■	■	■	■	■	■	■	■

Not present or not examined

□ Present to a limited extent

■ Present to a major extent

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<u>Conservation Factors</u>	118	119	120	122	126	<u>BLOCK NUMBERS</u>		
						129	130	339
Age		■	■			■	■	■
<u>Other Factors</u>								
1. Dilapidation								□
2. Obsolescence		■	■		□	■	□	■
3. Deterioration		■	■		■	□	□	■ □
4. Illegal use of individual structures								
5. Structures below minimum code		■	■	□		□	□	■
6. Abandonment								
7. Excessive vacancies		□	□	□			□	■
8. Overcrowding of structures and community facilities								
9. Lack of ventilation, light or sanitary facilities			□					■
10. Inadequate utilities								
11. Excessive land coverage								
12. Deleterious land-use or layout			□		□		□	
13. Depreciation of physical maintenance		■	■		■			■ □
14. Lack of community planning		■	■	■	■	■	■	■ ■

Not present or not examined

□ Present to a limited extent

■ Present to a major extent

[Figure 1 referred to in this Canal/Congress Project Area Tax Increment Financing Eligibility Study constitutes Exhibit "E" to the ordinance and is printed on page \_\_\_ of this Journal.]

[Figures 2, 3a, 3b, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 referred to in this Canal/Congress Project Area Tax Increment Financing Eligibility Study printed on pages \_\_\_ through \_\_\_ of this Journal.]

Figure 2.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

Existing Land-Use.

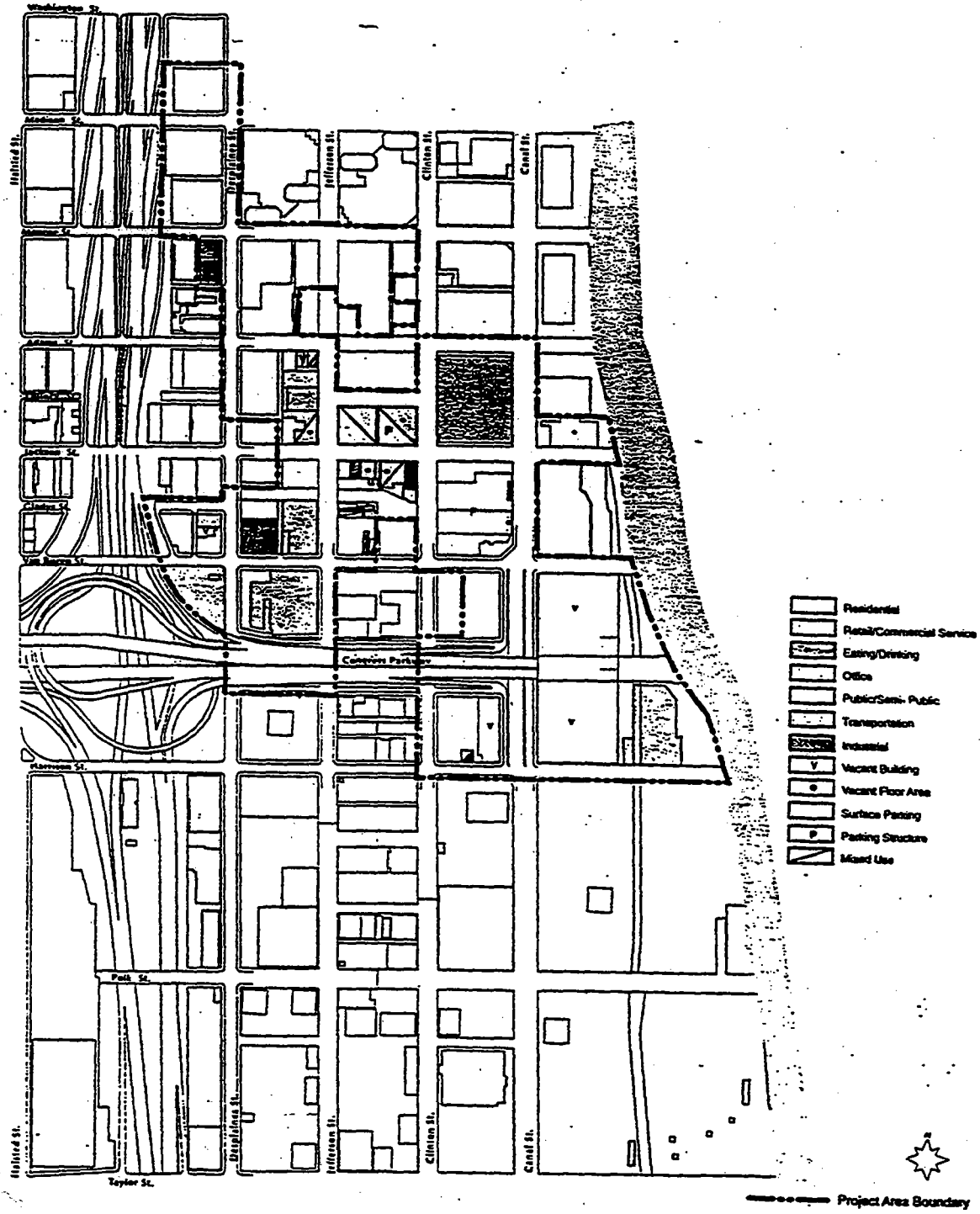


Figure 3a.  
 (To Canal/Congress Project Area Tax Increment  
 Financing Eligibility Study)

Interior/Exterior Survey.

BUILDING CONDITION SURVEY FORM																			
A. NAME OF ESTABLISHMENT/ OCCUPANTS				D. PROJECT CLIENT/NAME		BLOCK NO	PARCEL	BLDG. NO.	HEIGHT	CONST	BUILDING NAME								
				OWNER/OCCUPANT/CONTACT		ADDRESS			DATE OF SURVEY	SURVEYOR(S)									
				C. STRUCTURAL DEFECTS - DEGREE AND LOCATION															
FLOOR(S)	NO. UNITS	NO. OCC.	ACTIV.	LOOSE MATERIAL	MISSING MATERIAL	WORN WEATHERED	SPALLING	CRACKS	HOLE	WATER PENETRATION	SETTLING	OUT-OF-PLUMB	BOWING	SAGGING	WEAK LACK OF SUPPORT	IMPROPERLY CONSTRUCTED	INFECTION DAMAGE	DETERIORATING	COMPONENT RATING
1																			
2																			
3																			
4																			
U																			
<b>PRIMARY COMPONENTS</b>																			
EXTERIOR WALLS AND STRUCTURE																			
EXTERIOR FOUNDATION A/G																			
EXTERIOR ROOF-STRUCTURE																			
EXTERIOR COLUMNS																			
INTERIOR FOUNDATION																			
INTERIOR LOAD-BEARING WALLS/COLUMNS																			
INTERIOR FLOORS/STRUCTURE																			
INTERIOR ROOF STRUCTURE																			
<b>SECONDARY COMPONENTS</b>																			
DOORS, FRAMES, SILLS, HEADERS, TRIM																			
WINDOWS, STONEFRONTS, SASII, FRAMES, SILLS, TRIM																			
EXTERIOR STAIRS, STEPS, FIRE ESCAPES, STRUCTURES																			
EXTERIOR CEILINGS, CANOPIES																			
CHIMNEYS, STACKS																			
GUTTERS, DOWNSPOUTS																			
CORNICE, APPURTENANCES, DECORATIVE TRIM																			
INTERIOR FLOOR COVERING																			
INTERIOR NON-BEARING WALLS, CEILINGS																			
INTERIOR STAIRS, RAILINGS, BANISTERS																			

Figure 3b.  
 (To Canal/Congress Project Area Tax Increment  
 Financing Eligibility Study)

Interior/Exterior Survey.

D. MECHANICAL SYSTEMS DEFECTS - DEGREE AND LOCATION													E. CODE RELATED CONDITIONS - COMPLIANCE			CODES																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
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Figure 4.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

Age.

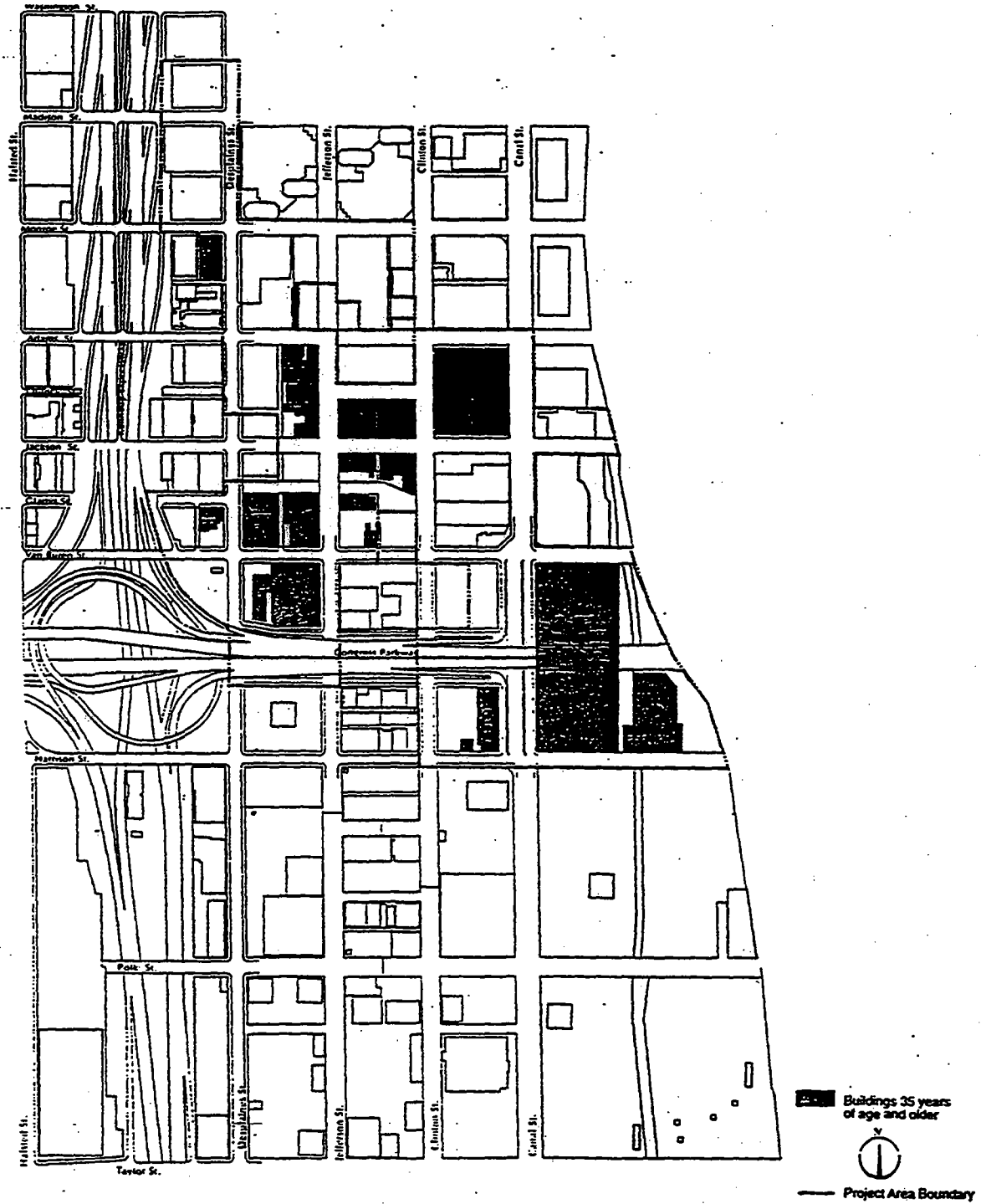


Figure 5.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

*Dilapidation.*

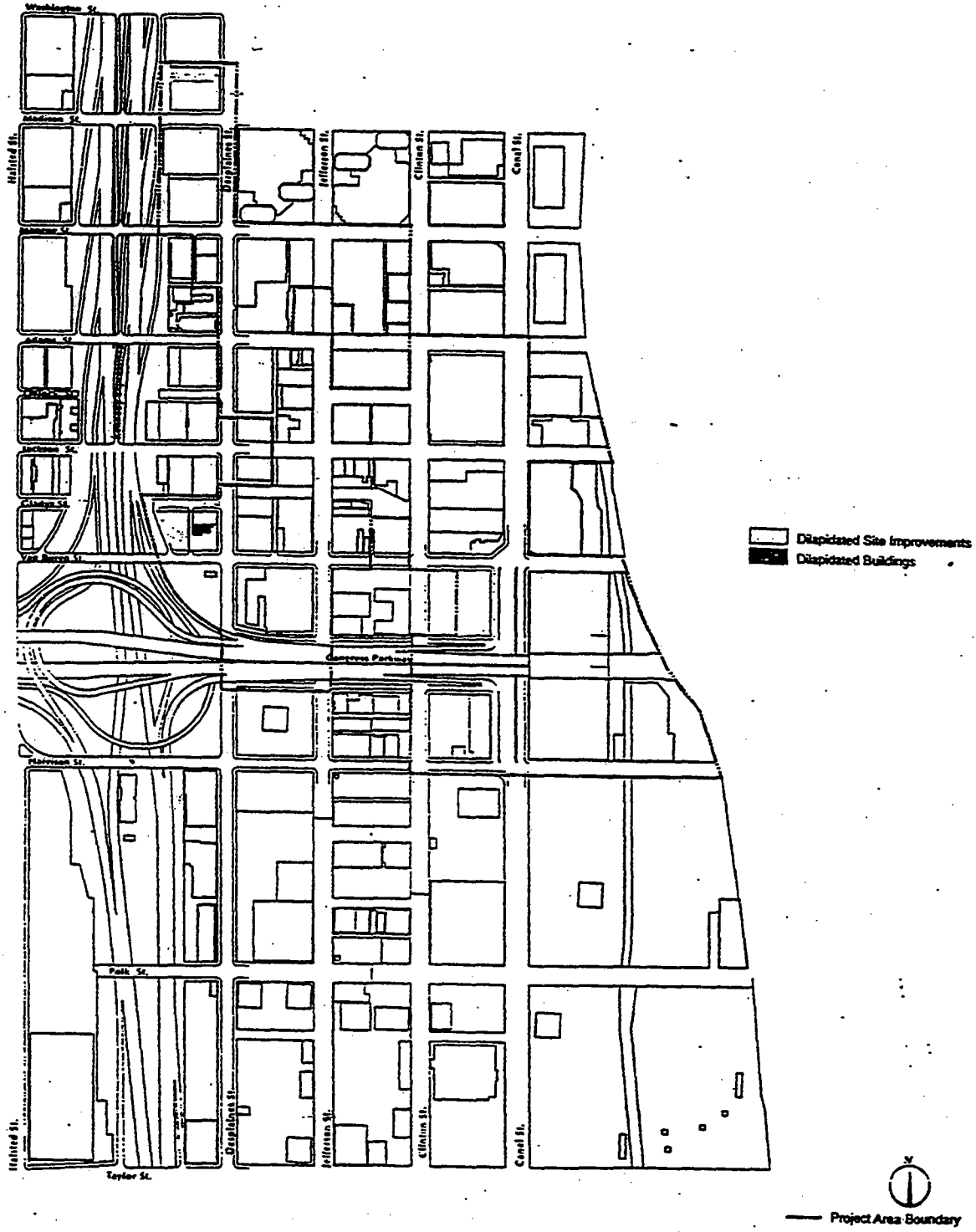


Figure 6.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

Obsolescence.

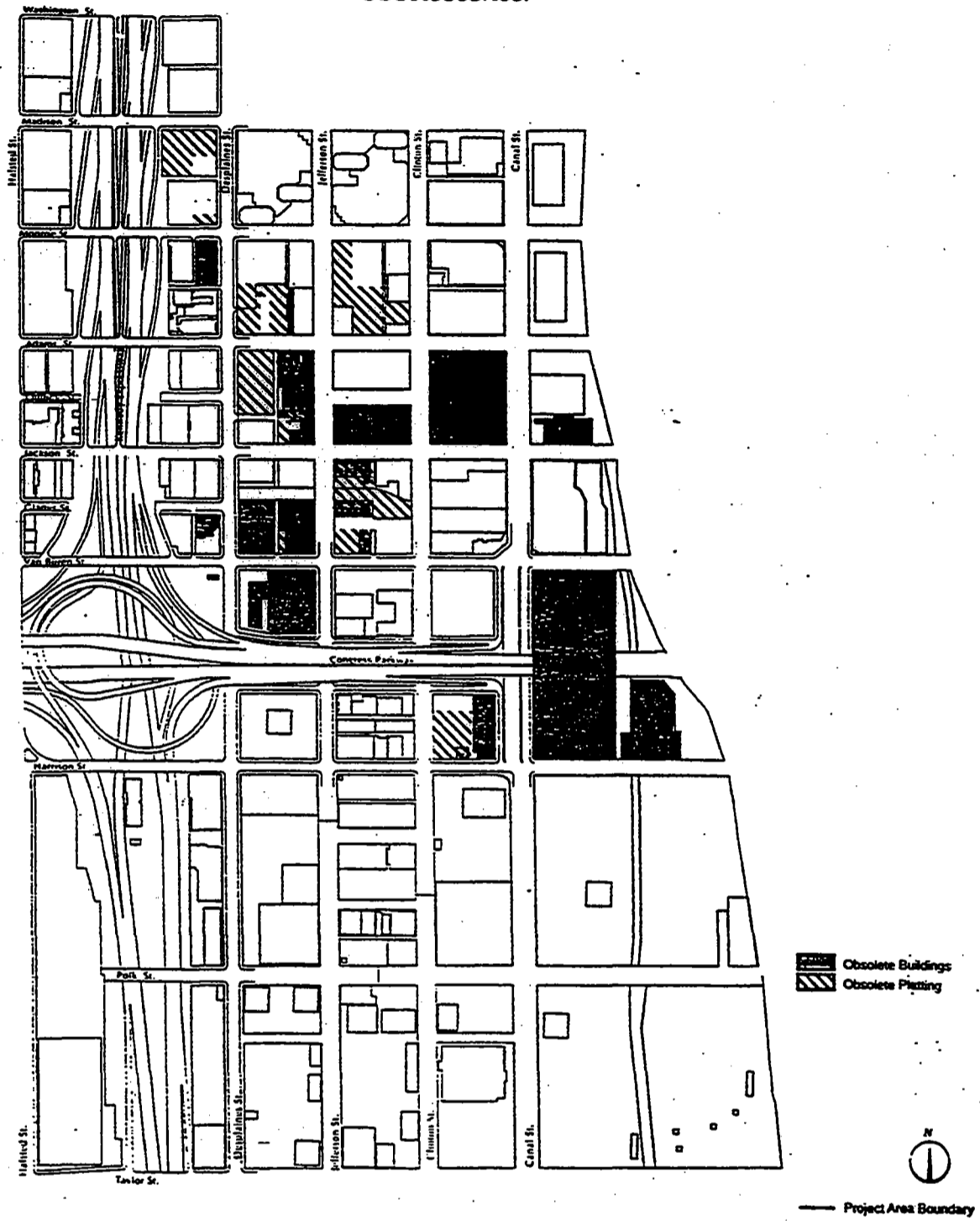


Figure 7.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

*Deterioration.*

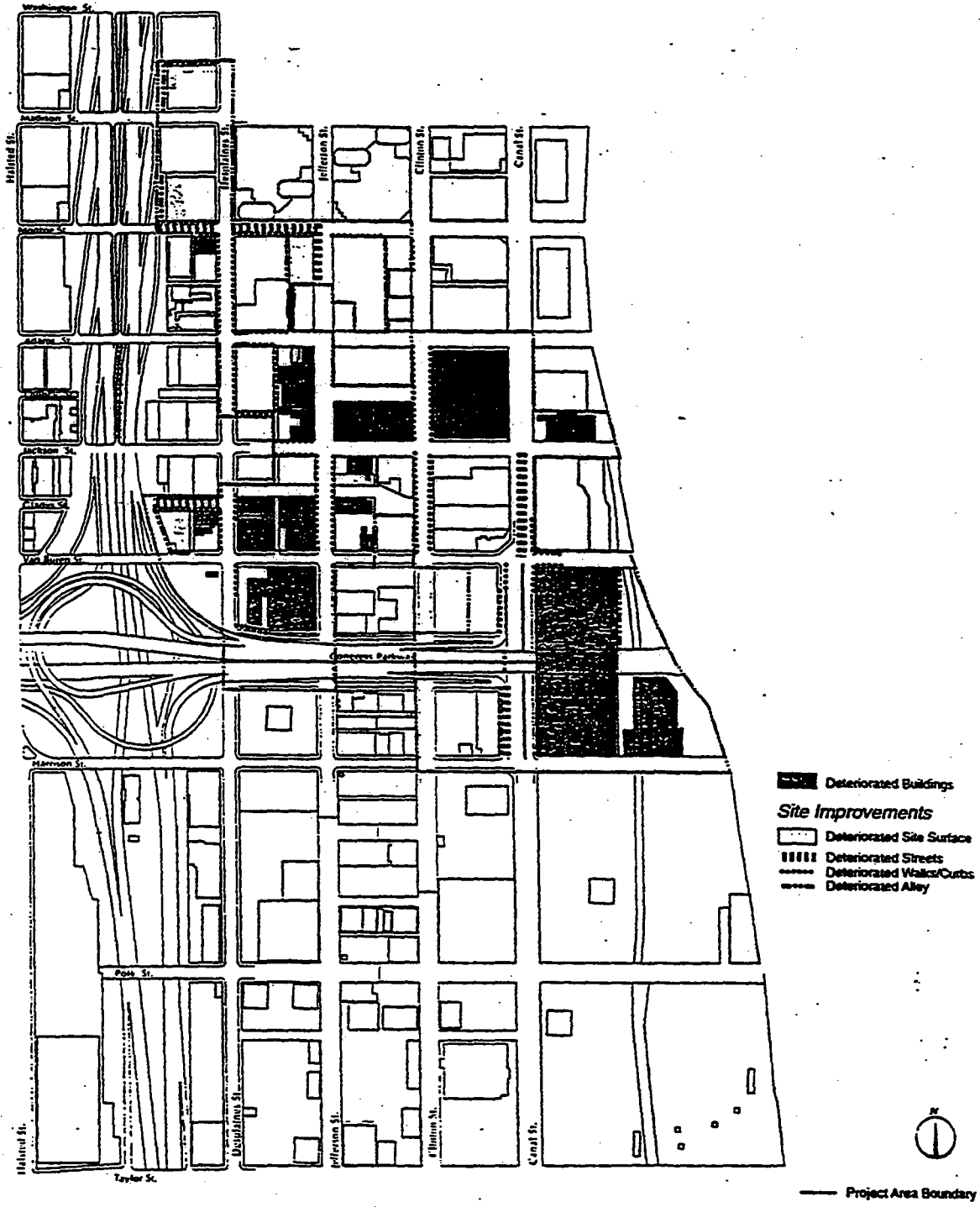


Figure 8.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

*Buildings Below Minimum Code Standards.*

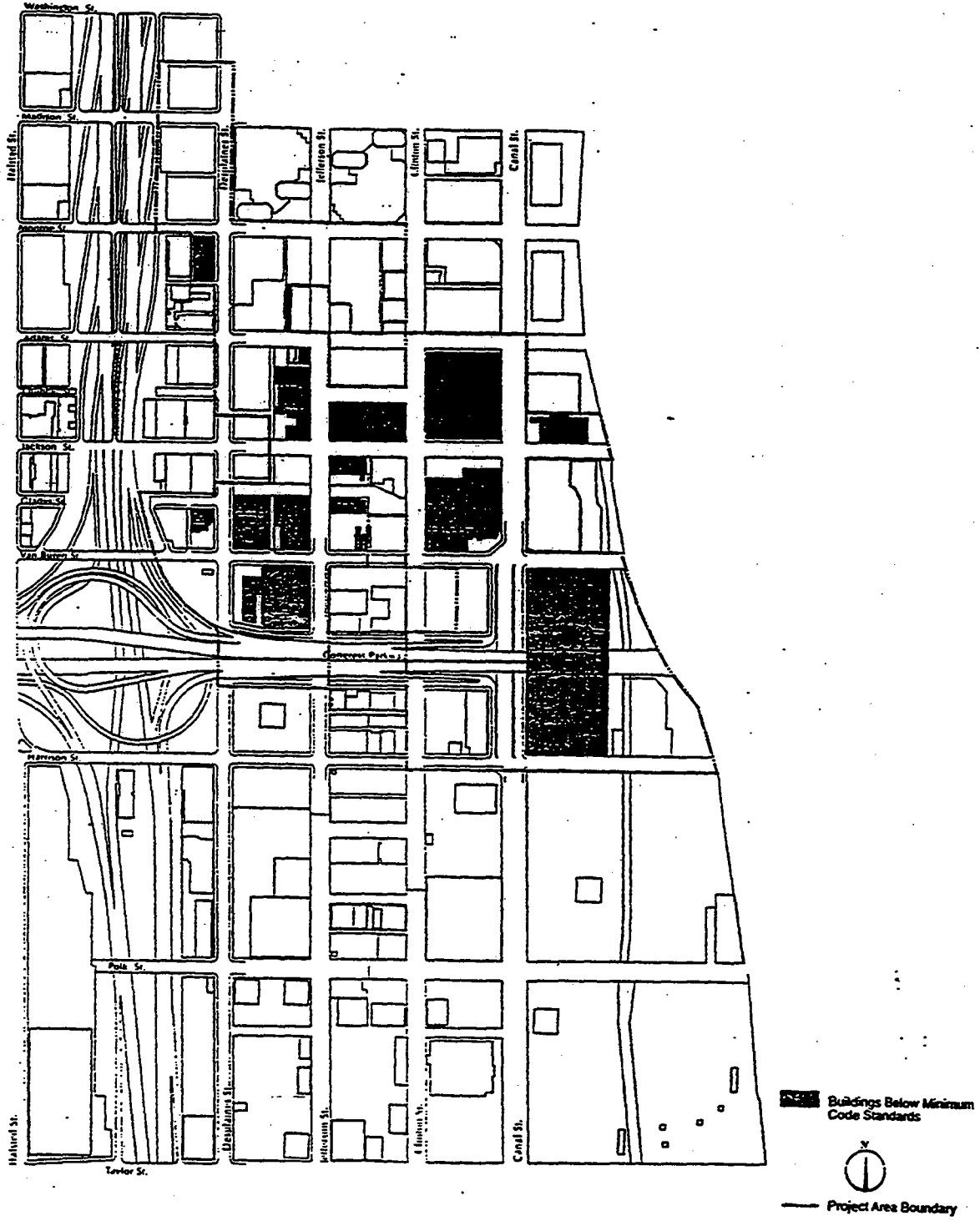


Figure 9.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

*Excessive Vacancies.*

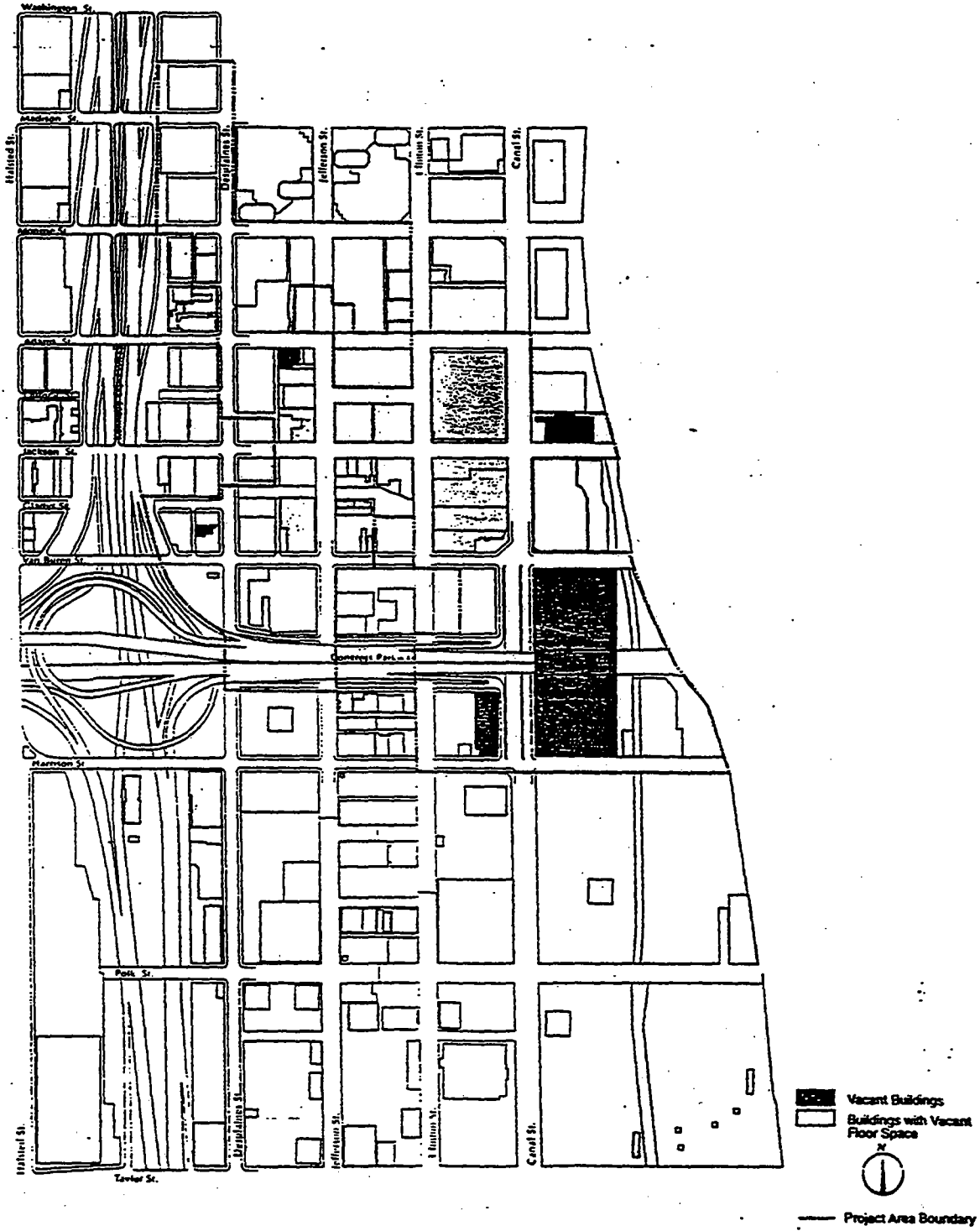


Figure 10.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

*Lack Of Light And Ventilation.*

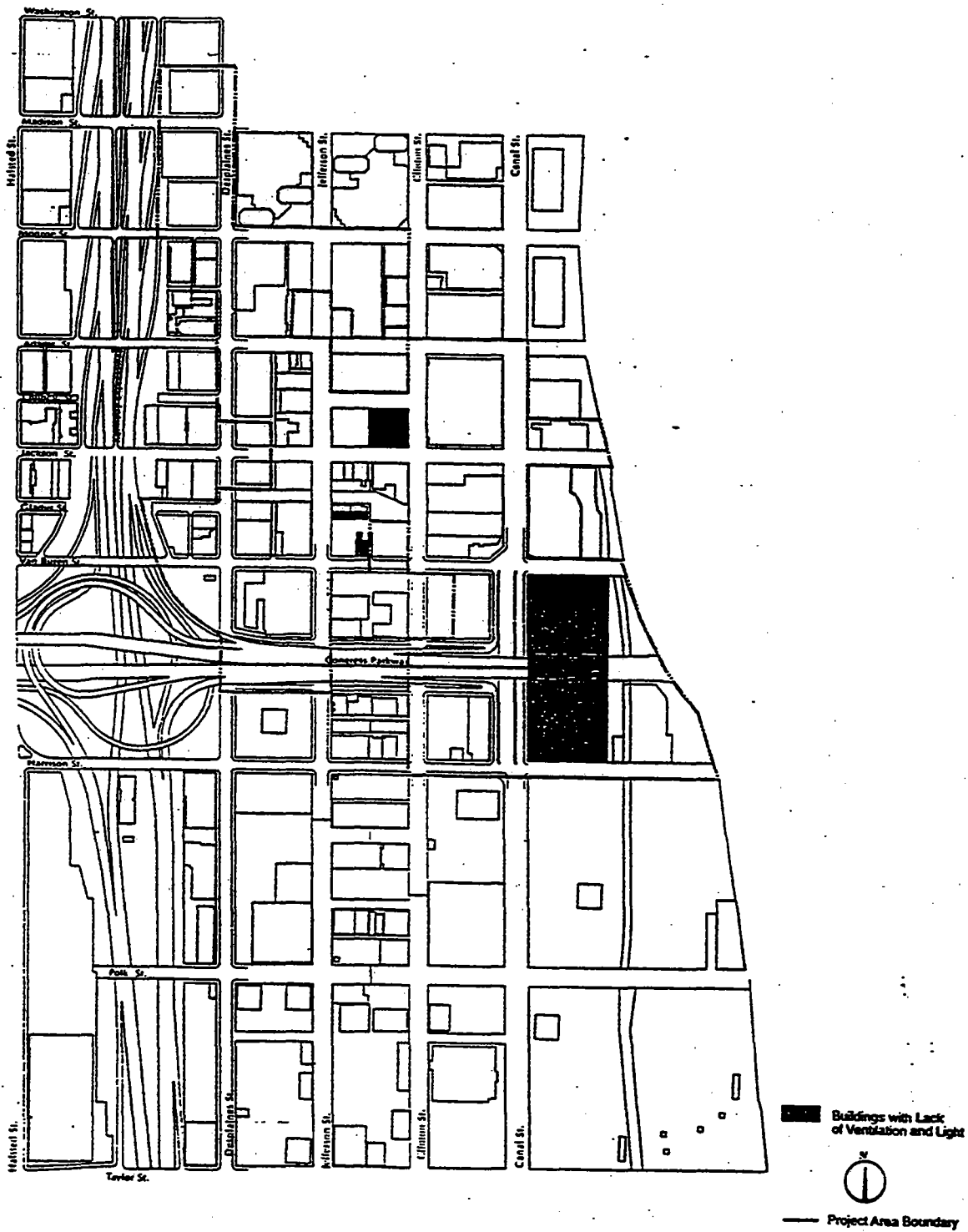


Figure 11.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

*Deleterious Land-Use/Layout.*

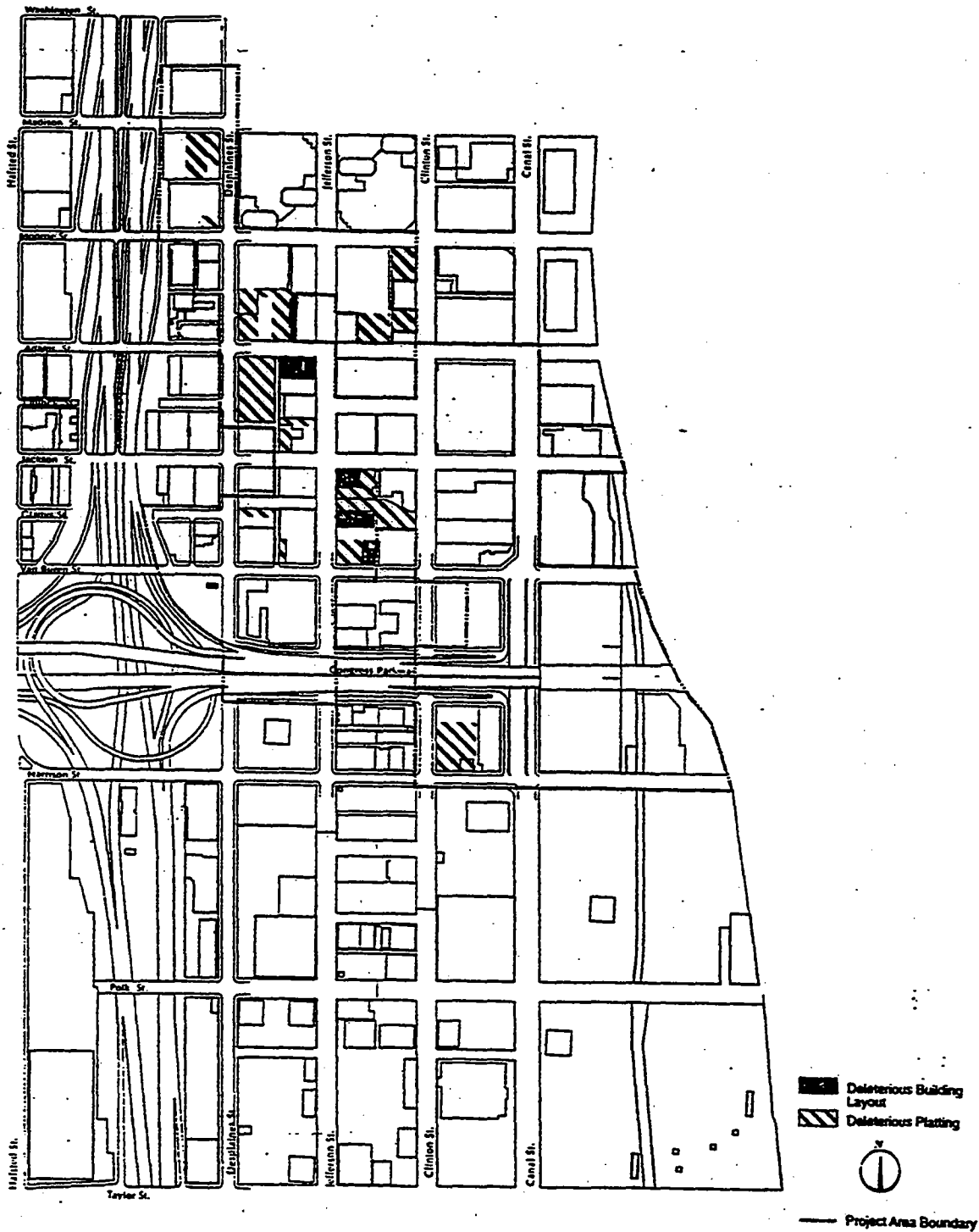




Figure 12.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

*Depreciation Of Physical Maintenance.*

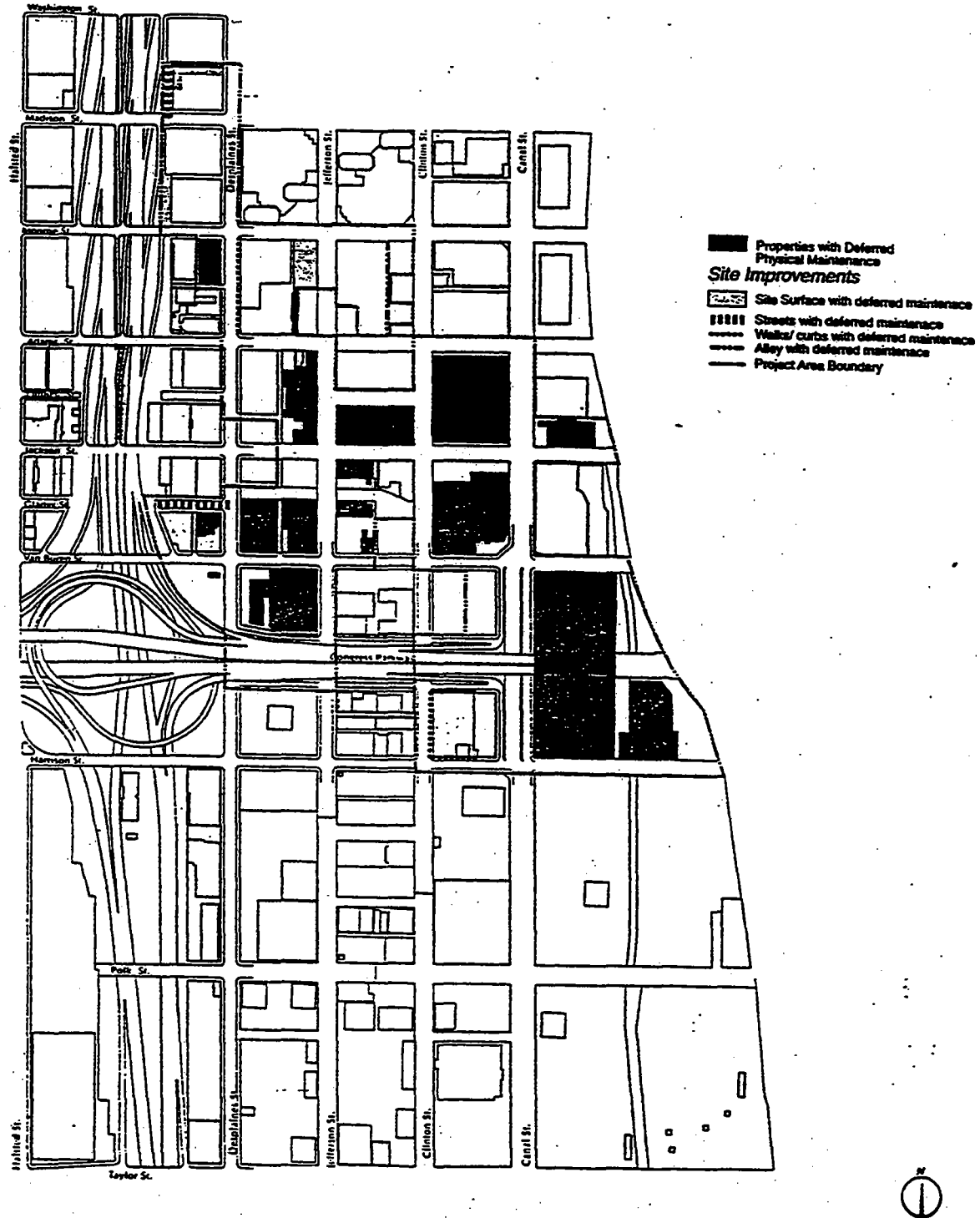
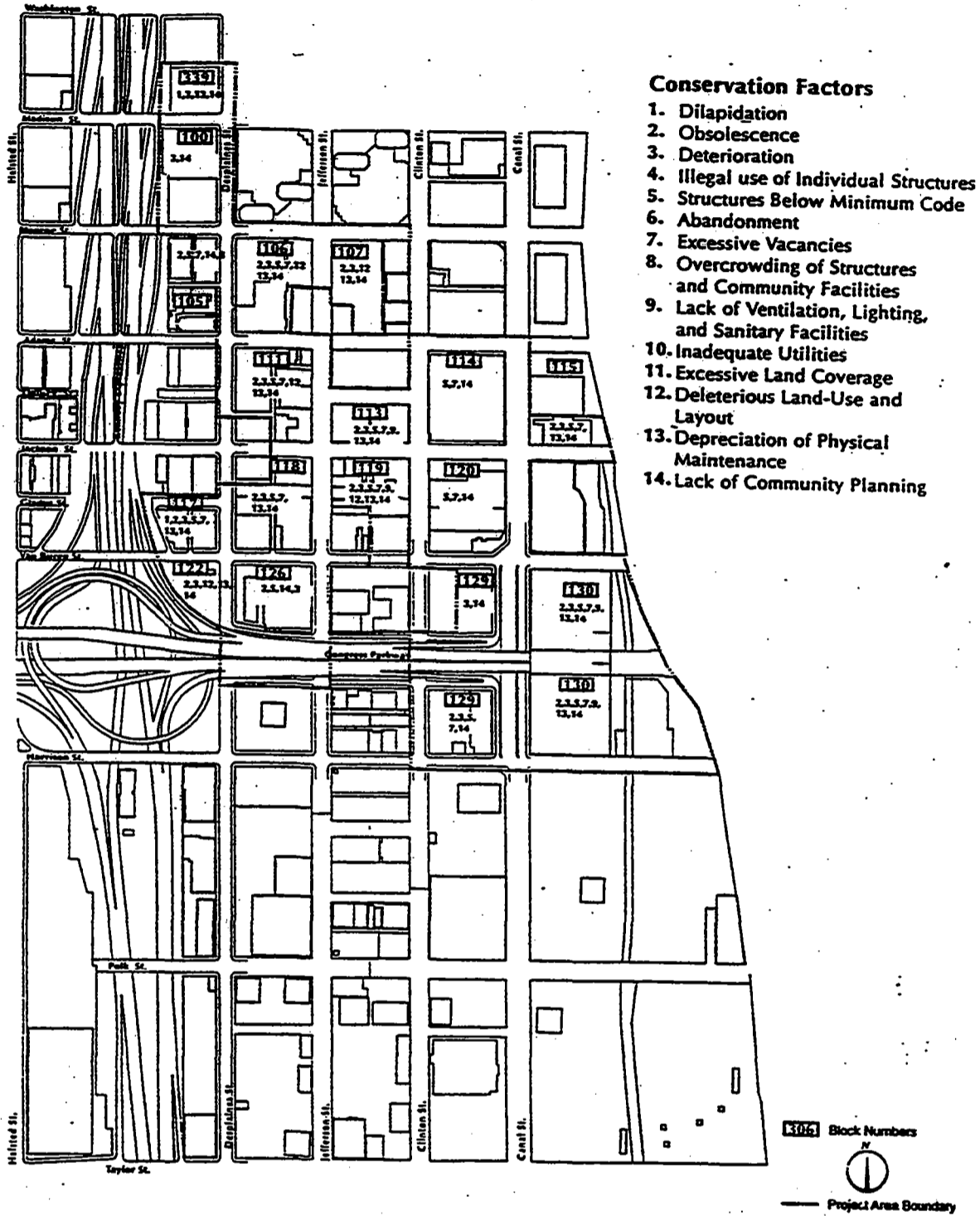


Figure 13.  
(To Canal/Congress Project Area Tax Increment  
Financing Eligibility Study)

Summary Of Conservation Factors.



**EXHIBIT E**

Construction Contract

[See attached]

# AIA<sup>®</sup> Document A102<sup>™</sup> – 2007

**Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price**

AGREEMENT made as of the \_\_\_\_ day of \_\_\_\_ in the year Two Thousand and Twelve  
(In words, indicate day, month and year.)

BETWEEN the Owner:  
(Name, legal status, address and other information)

Hillshire Brands Company  
3500 Lacey Road  
Downers Grove, IL 60515

and the Contractor:  
(Name, legal status, address and other information)

Clune Construction Company, Limited Partnership  
10 S. LaSalle Street  
Chicago, Illinois 60603  
Telephone Number: 312-726-6103  
Fax Number: 312-419-8139

for the following Project:  
(Name, location and detailed description)

Hillshire Brands Headquarters  
400 S. Jefferson  
Chicago, IL

The Architect:  
(Name, legal status, address and other information)

Perkins + Will  
330 N. Wabash  
Suite 3600  
Chicago, IL 60611  
Telephone Number: 312-755-0770  
Fax Number: 312-755-0775

The Owner and Contractor agree as follows.

#### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is not intended for use in competitive bidding.

AIA Document A201<sup>™</sup>-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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User Notes:

(1634891829)

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- 1 THE CONTRACT DOCUMENTS
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- 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 5 CONTRACT SUM
- 6 CHANGES IN THE WORK
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**ARTICLE 1 THE CONTRACT DOCUMENTS**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

**ARTICLE 2 THE WORK OF THIS CONTRACT**

§ 2.1 The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

§ 2.2 The Work includes generally, but is not limited to the interior construction of Hillshire Brands West Loop office facilities comprising of floors 1-4, Basement and Tower Floors 5 – 8, in accordance with the Contract Documents.

**ARTICLE 3 RELATIONSHIP OF THE PARTIES**

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests

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of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

Contractor acknowledges and agrees that (i) Owner has or will enter into that certain Hillshire Brands Company Redevelopment Agreement with the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Housing and Economic Development ("HED"), relating to the development of the Project (the "Redevelopment Agreement"); and (ii) pursuant to the Redevelopment Agreement, certain aspects of the Work are to be financed by the City pursuant to the terms of the Redevelopment Agreement. Contractor agrees to comply with the terms and conditions set forth herein and in Exhibit B relating to the City's and/or HED's requirements with respect to the Project. Further, and without limiting the foregoing, Contractor hereby agrees to assist and cooperate with Owner in connection with Owner's compliance with the requirements of Redevelopment Agreement.

#### ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 4.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Paragraph deleted)

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August 13, 2012 and upon issuance of Building Permit and Owner's approval of critical subcontracts.

If, prior to commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

§ 4.2 The Contract Time shall be measured from the date of commencement.

§ 4.3 The Contractor shall achieve Substantial Completion of the entire Work not later than ( ) days from the date of commencement, or as follows:

(Paragraph deleted)

December 14, 2012 (the "Date of Substantial Completion"). Contractor shall achieve Final Completion of the entire Work on or before January 31, 2013 or as otherwise agreed to by Owner (the "Date of Final Completion").

Portion of Work	Substantial Completion date
IT Closet / MDF Room	October 30, 2012

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Paragraph deleted)

#### ARTICLE 5 CONTRACT SUM

§ 5.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Contractor's Fee.

§ 5.1.1 The Contractor's Fee:

(Paragraph deleted)

One percent (1.0%) of the direct Cost of the Work plus the Lump Sum General Conditions (\$339,800). The Contractor's Fee shall be the Contractor's sole compensation for all profit, overhead and home office services, and any and all other costs or expenses incurred in connection with the Work, except for items included in the Cost of the Work or General Conditions, as applicable. The Contractor's Fee will not be increased except and only to the extent permitted by the terms of this Agreement.

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§ 5.1.2 The method of adjustment of the Contractor's Fee for changes in the Work:

One percent (1.0%) of direct Cost of the Work plus Owner approved General Conditions relating to such change

§ 5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

§ 5.1.4 Rental rates for Contractor-owned equipment shall not exceed Five percent ( 5 %) of the standard rate paid at the place of the Project.

§ 5.1.5 Unit prices, if any:

*(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)*

Item	Units and Limitations	Price Per Unit (\$0.00)
Laborer – Foreman/Journeyman	Hourly – Straight Time	\$78.00
Laborer – Foreman/Journeyman	Hourly – Time 1/2	\$95.00
Hoist Operator -	Hourly – Strght/DbI Time	\$95.00 / \$190.00
Project Manager	Hourly	\$92.00
Assistant Project Manger	Hourly	\$75.00
Field Superintendent	Hourly	\$92.00

§ 5.2 GUARANTEED MAXIMUM PRICE

§ 5.2.1 Owner shall pay Contractor for the complete performance of Contractor's obligations under this Contract, including the proper performance of all Work required hereby, the actual Cost of the Work (as defined below), plus the "Contractor's Fee", up to a total guaranteed maximum compensation of Twenty-One Million Eight-Hundred Seventy-Two Thousand and seven-hundred fifty dollars (\$ 21,872,750) (the "GMP" or the "Guaranteed Maximum Price"). Contractor's Fee shall be Contractor's sole compensation for its profit, home office services and supervision, overhead and for any and all other costs or expenses incurred in connection with the performance of the Work on the Project, except for items specifically included in the Cost of the Work, and except for those increases expressly permitted herein. The GMP, and any individual component thereof, will not be increased for any reason, cause or circumstance unless and only to the extent expressly permitted by this Contract. Costs in excess of the GMP shall be borne and paid for by Contractor without increase in the GMP. Contractor shall build and complete the Work in conformance with the Contract Documents, (including without limitation budgets, schedules, and constructability reviews provided by the Contractor) within the Guaranteed Maximum Price. The Contractor guarantees to the Owner, at the Contractor's sole risk and expense, that the Guaranteed Maximum Price is a sufficient amount to perform the entire Work within the Contract time and to supply all of the facilities, equipment, and materials that are reasonably inferable from trade practice to complete the Work.

The Schedule of Values proposed by Contractor may include a contingency to be known as the "Contractor's Contingency", which shall be used solely in accordance with this section 5.2.1. The Contractor's Contingency shall not exceed an amount or percentage of the estimated Cost of the Work agreed to in advance in writing by Owner. The Contractor's Contingency shall be available to the Contractor to pay for (a) unanticipated actual costs caused by changes in local market, labor or material conditions, (b) actual costs caused by the default or bankruptcy of a Subcontractor that cannot be recovered from applicable insurance or bonds, (c) costs associated with the issuance or further delineation of the design documents after the establishment of the Guaranteed Maximum Price, and (d) other unanticipated costs incurred by the Contractor and not recoverable or reimbursable pursuant to the other provisions of this Agreement, but only to the extent approved in advance by the Owner in writing, which approval shall not be unreasonably withheld or delayed. Once such funds are exhausted (or after final completion when the Contractor's Contingency shall be closed), the Contractor shall have no right to payment for the Contractor Contingency items referenced in this Section 5.2.1, but shall incur and pay for all such costs and expenses without reimbursement from the Owner or any increase in the Guaranteed Maximum Price.

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- GMP amount is subject to adjustment after final bid documents are issued and priced
- General Conditions are priced and included as Lump Sum

The difference, as of a date no later than 30 days after Final Completion, between (i) the total aggregate sum of the Cost of the Work plus the Contractor's Fee and (ii) the Guaranteed Maximum Price shall be deemed the "Savings". Any such Savings shall accrue 50% to Owner and 50% to Contractor, provided that Contractor shall not be entitled to any Savings in excess of the Contractor's GMP Fee amount (\$211,610).

§ 5.2.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

*(State the numbers or other identification of accepted alternates. If bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when the amount expires.)*

§ 5.2.3 Allowances included in the Guaranteed Maximum Price, if any, shall be adjusted as and when the final scope and pricing are achieved under the Contract, with all Savings accruing to the benefit of Owner, as a deduction from the Cost of the Work. The Contractor shall include in the Contract Sum all Allowances stated in the Contract Documents. Items covered by Allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct in writing. Allowances shall cover the cost to the Contractor of materials and equipment delivered to the Project site and all required taxes. The Contractor's cost for unloading and handling at the Project site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances. Whenever actual costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly only by properly executed Change Order, and the amount of such Change Order shall reflect the difference between the actual costs and the Allowances. The Contractor shall furnish the Owner with information, documentation or other materials requested by Owner to verify or evaluate the actual cost of any Allowance. The Contractor shall not commence any Work involving Allowances until the Owner is furnished with all pricing data requested, and until authorized by the Owner in writing. Allowances shall be adjusted as and when the scope and pricing are completed under the Contract, with all savings accruing to the benefit of Owner, as a deduction from the Cost of the Work.

*(Identify allowance and state exclusions, if any, from the allowance price.)*

Item	Price
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§ 5.2.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

GMP Summary and Back-up, Clarifications and Schedule attached as Exhibit A.

§ 5.2.5 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Contractor has provided in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

#### ARTICLE 6 CHANGES IN THE WORK

§ 6.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 6.2 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201-2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201-2007 shall have the meanings assigned to them in AIA Document A201-2007 and shall not be modified by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

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§ 6.3 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201-2007 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Contractor's Fee as defined in Section 5.1.1 of this Agreement.

§ 6.4 If no specific provision is made in Article 5 for adjustment of the Contractor's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Article 5 will cause substantial inequity to the Owner or Contractor, the Contractor's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

#### ARTICLE 7 COSTS TO BE REIMBURSED

##### § 7.1 COST OF THE WORK

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. Such costs shall be paid or reimbursed to the Contractor at the agreed rates described on the Contractor Documents, and where no agreed rate is described, at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in this Article 7.

§ 7.1.2 Where any cost is subject to the Owner's prior approval, the Contractor shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing this Agreement.

##### § 7.2 LABOR COSTS

§ 7.2.1 Wages of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, when stationed at the Contractor's principal or other offices for the time required for the Work, with the Owner's prior approval.

§ 7.2.2 Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

*(If it is intended that the wages or salaries of certain personnel stationed at the Contractor's principal or other offices shall be included in the Cost of the Work, identify in Article 15, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)*

§ 7.2.3 Wages and salaries of the Contractor's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, with the Owner's prior approval.

##### § 7.3 SUBCONTRACT COSTS

Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts entered into for the performance of Work or amounts actually expended by Contractor for the performance of Work minus any amounts already paid by Owner and minus any back charged amounts..

##### § 7.4 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION

§ 7.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

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**§ 7.5 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES AND RELATED ITEMS**

**§ 7.5.1** Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value.

**§ 7.5.2** Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Contractor-owned item may not exceed the purchase price of any comparable item. Rates of Contractor-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

**§ 7.5.3** Costs of removal of debris from the site of the Work and its proper and legal disposal.

**§ 7.5.4** Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site.

**§ 7.5.5** Costs of materials and equipment to be used on the Project suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

**§ 7.6 MISCELLANEOUS COSTS**

**§ 7.6.1** Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

**§ 7.6.2** Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Contractor is liable.

**§ 7.6.3** Fees and assessments for the building permit and for other permits, licenses and inspections for which the Contractor is required by the Contract Documents to pay.

**§ 7.6.4** Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

**§ 7.6.5** Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Contractor resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Contractor's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201-2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

**§ 7.6.6** Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.

**§ 7.6.7** Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.

**§ 7.6.8** Legal and mediation costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor or Contractor or Owner and any Subcontractors, reasonably incurred by the Contractor after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld. However such costs shall not be included in the calculation of the Contractor's Fee.

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§ 7.6.9 Subject to the Owner's prior approval, expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work.

§ 7.6.10 That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

**§ 7.7 OTHER COSTS AND EMERGENCIES**

§ 7.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner, which writing specifically identifies such costs as a "Cost of the Work"..

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201-2007.

*(Paragraph deleted)*

**§ 7.8 RELATED PARTY TRANSACTIONS**

§ 7.8.1 For purposes of Section 7.8, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Contractor; any entity in which any stockholder in, or management employee of, the Contractor owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Contractor. The term "related party" includes any member of the immediate family of any person identified above.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Article 10. If the Owner fails to authorize the transaction, the Contractor shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Article 10.

**§ 7.9 INTERPRETATION OF COSTS**

As used herein, "costs" shall be actual costs paid by the Contractor, less all discounts, rebates, and salvages taken by the Contractor, subject to Article 9 of this Agreement. All payments made by the Owner pursuant to this Article 7 are included within the Guaranteed Maximum Price specified in Section 5.2, whether those payments are actually made before or after the execution of the Contract Documents; provided, however, that in no event shall the Owner be required to reimburse Contractor for any portion of the Cost of the Work incurred prior to incurring such costs

**ARTICLE 8 COSTS NOT TO BE REIMBURSED**

§ 8.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section 7.2. or as may be provided in Article 15;
- .2 Expenses of the Contractor's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Article 7;
- .4 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
- .5 Rental costs of machinery and equipment, except as specifically provided in Section 7.5.2
- .6 Costs due the negligence or failure to fulfill a responsibility of the Contractor, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to the costs of correcting damaged, defective or non-conforming work, disposal and replacement of materials and equipment incorrectly ordered or supplied, and repairing damage to property not forming part of the Work. The Contractor specifically acknowledges and agrees that it shall receive no compensation, and the Cost of the Work shall not include, any costs incurred by the Contractor in repairing or correcting, or supervising the correction or repair, of defective or non-conforming work, performed or supplied by any Subcontractor, material supplier, or any other person or entity employed by

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the Contractor, under contract with the Contractor, or performing Work on the Project on behalf of or under supervision of the Contractor, regardless of whether such defective or non-conforming work resulted from the fault or negligence of the Contractor or the Contractor's personnel. The Contractor's sole remedy with respect to the recovery of such costs shall be whatever remedies are contained in the Contractor's Subcontract agreements with its Subcontractors, suppliers and other persons or entities providing Work on the Project.

- .7 Any cost not specifically and expressly described in Article 7; and
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

#### ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

§ 9.1 Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

§ 9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

#### ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

§ 10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Contractor and the Architect, which bids will be accepted. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

§ 10.2 When a specific bidder (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 10.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. Contractor shall at all times supply adequate labor and supervision for the proper prosecution of the Work, and, at all times that the Work is being performed. Contractors shall supply a qualified, competent supervisor to the site. Contractor, at its sole cost and expense, shall be solely responsible for and shall indemnify, defend and hold the Indemnified Parties (as defined Section 3.18.1 of the General Conditions) harmless from, the consequences of any delay, loss, liability, claims or damages arising from the use by Contractor, or any subcontractor of non-union labor without the prior consent of the Owner. Notwithstanding anything to the contrary in the Contract Documents, and to the fullest extent permitted by law, Contractor shall be and remain solely responsible for the acts and omissions of its agents, employees, Contractors and Subcontractors and shall indemnify, defend and hold the Indemnified Parties harmless from and against any loss, liability, claims or damages arising there from, including reasonable attorneys' fees.

#### ARTICLE 11 ACCOUNTING RECORDS

The Contractor shall keep full and detailed and accurate books records and accounts related to the cost of the Work and all disbursements and accounts payable in connection with the Project and shall exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to inspect, audit and copy, the Contractor's records and accounts, including complete documentation supporting accounting

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entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, paid receipts, invoices, waivers of liens, memoranda and other data relating to this Contract. The Contractor shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

#### ARTICLE 12 PAYMENTS

##### § 12.1 PROGRESS PAYMENTS

§ 12.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 12.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 12.1.3 Provided that an Application for Payment is received by the Architect not later than the 10<sup>th</sup> day of a month, and provided further that (i) the Contractor is not in default hereunder, (ii) the Architect has issued a Certificate for Payment, and (iii) all other conditions for payment have been fulfilled, the Owner shall pay to the Contractor the amount properly billed in the Application for Payment not later than 25 days after the Owner and Architect receive the Application for Payment, or shall notify the Contractor in writing of the reason for withholding payment. Should the Owner dispute any payment requested by the Contractor, the Owner shall nevertheless pay the Contractor all amounts not in dispute and the Owner and Contractor shall diligently pursue resolution of the dispute. The Contractor shall not delay prosecution of the Work pending such resolution, and no additional time shall be added to the Contract Time nor shall such nonpayment pending resolution of the dispute constitute grounds for a Claim or termination by the Contractor. If, and to the extent, the Work is in fact not free from all liens, security interests and encumbrances arising from Contractor's prosecution of the Work, then Owner shall have the right to offset any amounts necessary to satisfy or release all such liens, security interest or encumbrances against the next progress payments due Contractors.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 12.1.4 If requested, with each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee, Lump Sum General Conditions; plus (3) payrolls for the period covered by the present Application for Payment. Contractor shall also submit all documentation required under the A201 General Conditions, including all required lien waivers for all Work previously performed. Lien waivers shall be in a form acceptable to Owner. Payments may be withheld at Owner's discretion for Applications for Payment without the required lien waivers.

§ 12.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Contractor's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 12.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 12.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Contractor's Fee, less retainage of Ten percent (10 %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of Zero percent ( 0 %) from that portion of the Work that the Contractor self-performs; including insurance, general conditions and labor.
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 12.1.8 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 12.1.9 In taking action on the Contractor's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 12.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

#### § 12.2 FINAL PAYMENT

§ 12.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.
- .4 Final unconditional lien waivers and releases from the Contractor and from each Subcontractor, Sub-subcontractor and material supplier of every tier have been delivered to Owner;
- .5 All manuals, warranties and training have been provided by Contractor;
- .6 A statement from the Architect that all Work has been completed in accordance with the Contract Documents has been received by Owner;
- .7 As-Built drawings have been received by the Owner from the Contractor incorporating all mechanical, electrical, HVAC and plumbing and fire protection.
- .8 The Contractor has completed all Punch List items and fulfilled all other obligations for final payment.

§ 12.2.2 The Owner's auditors will review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Architect by the Contractor. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Contractor's final accounting, and provided the other conditions

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of Section 12.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201-2007. The time periods stated in this Section 12.2.2 supersede those stated in Section 9.4.1 of the AIA Document A201-2007. The Architect is not responsible for verifying the accuracy of the Contractor's final accounting.

§ 12.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Contractor's final accounting to be less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201-2007. A request for mediation shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount certified in the Architect's final Certificate for Payment.

§ 12.2.4 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 12.2.5 If, subsequent to final payment and at the Owner's request, the Contractor incurs costs described in Article 7 and not excluded by Article 8 to correct defective or nonconforming Work, the Owner shall reimburse the Contractor such costs and the Contractor's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Contractor has participated in savings as provided in Section 5.2, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Contractor.

#### ARTICLE 13 DISPUTE RESOLUTION

##### § 13.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, unless the parties appoint below another individual, not a party to the Agreement, to serve as Initial Decision Maker. *(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

##### § 13.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)*

Arbitration pursuant to Section 15.4 of AIA Document A201-2007

Litigation in a court of competent jurisdiction

Other *(Specify)*

#### ARTICLE 14 TERMINATION OR SUSPENSION

§ 14.1 Subject to the provisions of Section 14.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2007.

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§ 14.2 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201-2007, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A201-2007 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner.

§ 14.3 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 14.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 14, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. As a further condition of receiving such payment in the event of termination, Contractor shall deliver to Owner all documents, materials and papers, cancel all purchase orders for materials on terms satisfactory to Owner, and cooperate with Owner in the termination of the Contract and the transfer of the performance of the Work to a successor Contractor.

§ 14.4 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201-2007, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Sections 5.1.1 and Section 6.4 of this Agreement.

#### ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Where reference is made in this Agreement to a provision of AIA Document A201-2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 15.2 Undisputed payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

2.0% per month

§ 15.3 The Owner's representative:

*(Name, address and other information)*

Mr. Howard Blair  
Development Resources Inc.  
439 North Wells St.  
Chicago, IL 60610

§ 15.4 The Contractor's representative:

*(Name, address and other information)*

Mr. William L. Abromitis  
Clune Construction Company  
10 S. LaSalle St., Suite 300  
Chicago, IL 60603

§ 15.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days' written notice to the other party.

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§ 15.6 Other provisions:

**ARTICLE 16 ENUMERATION OF CONTRACT DOCUMENTS**

§ 16.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 16.1.1 The Agreement is this executed AIA Document A102-2007, Standard Form of Agreement Between Owner and Contractor.

§ 16.1.2 The General Conditions are AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 16.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
GMP	Exhibit A	August 17, 2012	

§ 16.1.4 The Specifications:

*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

As listed on Schedule A to Exhibit A

Section	Title	Date	Pages
---------	-------	------	-------

§ 16.1.5 The Drawings:

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

As listed on Schedule A to Exhibit A

Number	Title	Date
--------	-------	------

§ 16.1.6 The Addenda, if any:

Number	Date	Pages
As may be listed on Exhibit A		

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 16.

§ 16.1.7 Additional documents, if any, forming part of the Contract Documents:

.1 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

.2 Other documents, if any, listed below:

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

Exhibit B - Terms, Conditions and Requirements for Publicly Funded Portions of the Work,

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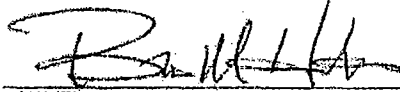
**ARTICLE 17 INSURANCE AND BONDS**

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)

Type of insurance or bond	Limit of liability or bond amount (\$0.00)	
The Contractor shall maintain at least the following insurance limits or such higher limits as are provided for in the specifications:		
Worker's Compensation Statutory Employer's Liability	\$1,000,000	each accident
	\$1,000,000	disease, policy limit
	\$1,000,000	disease, each employee
Commercial General Liability (including Premises Operations, Independent Contractor's Protective Products and Completed Operations, Broad Form Property Damage, X, C & U; Contractual Liability)	\$2,000,000	each occurrence aggregate
Comprehensive Automotive Liability Insurance	\$1,000,000	bodily injury and/or property combined single limit each accident
Umbrella Excess Liability	\$5,000,000	

This Agreement entered into as of the day and year first written above.



OWNER (Signature)

Brian Hunter  
Vice President, Real Estate & Facility Services  
(Printed name and title)

CONTRACTOR (Signature)

William L. Abromitis,  
President - Midwest  
(Printed name and title)

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Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit B - Terms, Conditions and Requirements for Publicly Funded Portions of the Work,

**ARTICLE 17 INSURANCE AND BONDS**

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)

Type of insurance or bond	Limit of liability or bond amount (\$0.00)	
<b>The Contractor shall maintain at least the following insurance limits or such higher limits as are provided for in the specifications:</b>		
Worker's Compensation Statutory		
Employer's Liability	\$1,000,000	each accident
	\$1,000,000	disease, policy limit
	\$1,000,000	disease, each employee
Commercial General Liability	\$2,000,000	each occurrence
(including Premises Operations;	\$2,000,000	aggregate
Independent Contractor's Protective;		
Products and Completed Operations;		
Broad Form Property Damage, X, C & U;		
Contractual Liability)		
Comprehensive Automotive Liability	\$1,000,000	bodily injury and/or property
Insurance		combined single limit each
		accident
Umbrella Excess Liability	\$5,000,000	

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

Brian Hunter  
Vice President, Real Estate & Facility Services  
(Printed name and title)

CONTRACTOR (Signature)

William L. Abromitis,  
President - Midwest  
(Printed name and title)

# AIA<sup>®</sup> Document A201<sup>™</sup> – 2007

## General Conditions of the Contract for Construction

for the following PROJECT:  
(Name and location or address)  
Hillshire Brands Headquarters  
400 S. Jefferson  
Chicago, IL

THE OWNER:  
(Name, legal status and address)  
Hillshire Brands Company  
3500 Lacey Road  
Downers Grove, IL 60515

THE ARCHITECT:  
(Name, legal status and address)  
Perkins + Will  
330 N. Wabash  
Suite, 3600  
Chicago, IL 60611

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### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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## ARTICLE 1 GENERAL PROVISIONS

### § 1.1 BASIC DEFINITIONS

#### § 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda wherever located and whenever issued, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

#### § 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.2.1 The Contractor is responsible for reviewing and coordinating the provisions of all of the Contract Documents. The failure to review any such document shall not relieve or excuse the Contractor from compliance with its terms or the terms of any Contract Document.

§ 1.1.2.2 The Contractor's proposals and bid submittals in connection with the Project (and any request for proposal issued by the Owner, as well as any communications relating thereto), if any, are NOT part of the Agreement and shall not be the basis for any claim by Contractor. All are superseded by the provisions of the Contract Documents.

§ 1.1.3.1 The Contractor shall provide, and as used in the Contract Documents the Work shall include, all items, labor, supervision, materials, fixtures, special facilities, built-ins, equipment, tools, supplies, taxes, permits (including occupancy permits, unless precluded by the Plans and Specifications), building and occupancy permit related inspections, and other property and services necessary to timely and properly produce all work and completed demolition and construction required or reasonably inferable from the Contract Documents and all work, services and materials necessary to produce fully connected, complete, operational and functional systems and finishes. In determining what is reasonably inferable from the Contract Documents, all such documents shall be construed together, and shall not be read by separate trade areas or design divisions, and shall be read as intending fully connected, complete, operational and functional systems and finishes.

§ 1.1.3.2 There is no design build work for this project.

#### § 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### § 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

#### § 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

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#### § 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### § 1.1.7 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

#### § 1.1.8 INITIAL DECISION MAKER

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

#### § 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 The Contractor verifies and affirmatively represents that prior to executing the Contract, the Contractor evaluated the conditions and limitations under which the Work is to be performed, including, without limitation, (1) the location, conditions, layout and nature of the Project site and surrounding areas, (2) generally prevailing climatic conditions, (3) anticipated labor supply and costs, (4) availability and cost of materials, tools and equipment, and (5) other similar issues. The Contractor shall not be entitled to any increase in compensation above the GMP, as applicable, as a result of any condition at the Project site which should have been reasonably detected or anticipated by the Contractor as provided herein, and the Contractor shall perform all work required by or as a result of such condition, regardless of cost or expense, at the Contractor's own risk, cost and expense.

§ 1.2.5 In the event of inconsistencies within or between the Contract Documents, the Contractor shall (1) provide the better quality or quantity of Work, or (2) comply with the more stringent requirement. The terms and conditions of this paragraph, however, shall not relieve Contractor of any of the obligations set forth in paragraphs 3.2 and 3.7.

§ 1.2.6 Drawings, Specifications and other Contract Documents are not intended as "shop drawings" or extensively detailed documents. The Contractor shall provide all Work indicated or reasonable inferred as necessary to produce the intended result.

#### § 1.3 CAPITALIZATION

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

#### § 1.4 INTERPRETATION

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

#### § 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 1.5.1 All Instruments of Services resulting, derived from, relating to or made in the course of performance of the Work on the Project (including all design documents) will be considered "work for hire" and unless already in the

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public domain, all right title, ownership and interest in items of Work Product will be vested exclusively with Owner. From time to time upon request of Owner, Contractor and Architect shall execute and all documents and instruments as may be necessary to evidence, protect, perfect or otherwise confirm Owner's rights hereunder.

**§ 1.5.2** The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

**§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM**

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

**ARTICLE 2 OWNER**

**§ 2.1 GENERAL**

**§ 2.1.1** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

**§ 2.1.2** The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

**§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

**§ 2.2.1** Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

**§ 2.2.2** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

**§ 2.2.3** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site if requested. All dimensions of existing improvements, if any, and boundary lines shown in such survey are to be field checked and verified by Contractor and any material error or inconsistencies are to be communicated to Owner before commencing any portion of the Work affected thereby. Further, the existence of underground utilities shall be so identified in the field by Contractor before commencing any Work or as they are discovered during the performance of the Work. Contractor shall be responsible for and shall hold the Indemnified Parties (as defined herein) harmless from and against any costs or damages arising from its failure to comply with the foregoing verifications and confirmations.

**§ 2.2.4** The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

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§ 2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

**§ 2.3 OWNER'S RIGHT TO STOP THE WORK**

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3. Notwithstanding any provision or requirements to the contrary, Owner retains the right to immediately stop the Work as necessary to remedy an emergency.

**§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

**ARTICLE 3 CONTRACTOR**

**§ 3.1 GENERAL**

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

**§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR**

§ 3.2.1 Before commencing the Work, the Contractor shall study and compare the Contract Documents with each other, shall take field measurements and verify field conditions, shall lay out all lines, levels, dimensions and necessary benchmarks and shall compare such measurements and conditions to the information in the Contract Documents. Scaled measurements of drawings shall not be used by the Contractor unless verified. In the event the Contractor discovers any error, inconsistency, omission or conflict in the Contract Documents (or between the Contract Documents and verified field measurements or conditions), or discovers that that Contract Documents are at variance with any applicable Laws, the Contractor shall secure written instructions from the Owner and Architect prior to proceeding with any Work affected by or involving such error, inconsistency, omission or conflict. Based upon its comprehensive review of the site and Contract Documents, Contractor expressly represents that the site is suitable and the Contract Documents are sufficiently complete and detailed to perform the Work to produce the Owner's intended results fully in compliance with the requirements of the Contract Documents. Contractor shall be responsible to Owner for all costs and damages incurred by Owner should the Contractor proceed with Work without taking the actions required by this Section, or should the Contractor proceed with Work that it knows, or with reasonable diligence should have known, contains such an error, inconsistency, omission or conflict (unless the Owner orders the Contractor to proceed after receiving notice thereof).

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as

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the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Owner and Architect any errors, inconsistencies or omissions discovered by, which should have been discovered through the exercise of reasonable diligence, or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by, which should have been discovered through the exercise of reasonable diligence, or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

### § 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. The Contractor acknowledges and agrees that neither the Owner, the Architect nor any consultant hired by the Owner, are under any obligation to inspect the Work or discover defects or deficiencies in the Work. The inspection, observation or acceptance of the Work by the Owner, the Architect or any consultants retained by Owner shall not in any way constitute an acceptance of defective or improper Work (unless specifically so stated by the Owner in writing) and shall not make the Owner, Architect or such consultants responsible for means, methods, sequences or techniques used to perform the Work, which items shall remain the sole responsibility of the Contractor. Similarly, the failure of the Owner, Architect or any such consultants to discover or give notice of any defects, deficiencies or other problems in the Work shall not constitute a waiver or acceptance thereof and shall not in any way affect, or reduce the Contractor's responsibilities to perform the Work consistent with the terms of the Contract Documents

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall perform the Work in a skillful and competent manner in accordance with applicable standards of the construction industry and the Contract Documents. The Contractor shall be responsible to the Owner for errors or omissions in construction and failure to perform this Contract. All Work shall be performed

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only by appropriately skilled personnel in sufficient numbers, trained and experienced, and familiar with the materials and methods indicated or specified, and familiar with the manufacturer's recommended method of installation and all applicable codes, ordinances and industry standards applicable to the construction of the Work.

#### § 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

#### § 3.5 WARRANTY

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from faults, defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All manufactured articles, materials, and equipment shall be stored, applied, installed, tested, connected, erected, used, cleaned and conditioned by the Contractor as directed by the manufacturer unless otherwise specified. The Contractor agrees that all guarantees or warranties of equipment or materials furnished to the Contractor or Subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of, and are hereby assigned to, the Owner. As a condition to final payment for the Work, the Contractor shall deliver to the Owner three (3) clean, complete and readable copies (electronic copies of all documents are acceptable) of all guarantees and warranties on equipment and materials furnished by all manufacturers and suppliers to the Contractor and all Subcontractors, together with duly executed instruments properly assigning the guarantees and warranties to the Owner, and shall also deliver to the Owner three (3) clean, complete and readable copies (electronic copies of all documents are acceptable) of all related manufacturer's instructions, related maintenance manuals, replacement list, detailed drawings and any technical requirements necessary to operate and maintain such equipment and materials or needed to maintain the effectiveness of any such warranties.

§ 3.5.3 The warranties provided in Section 3.5.1 of the General Conditions are not limited by the provisions of Section 12.2.2 of the General Conditions. In addition, all warranties provided in Section 3.5.1 of the General Conditions or elsewhere in the Contract Documents shall survive any termination of this Contract by the Owner with or without cause.

§ 3.5.4 Notwithstanding anything to the contrary contained herein with respect to warranties, it is understood and agreed that foregoing warranties and guarantees shall not affect, limit or impair the Owner's right against the Contractor with regard to latent defects in the Work which do not appear within the applicable warranty period and which could not, by the exercise of reasonable care and due diligence, be ascertained or discovered by the Owner within such warranty period. The Contractor shall correct and cure any such latent defects which are reported to the Contractor by the Owner in writing within ninety (90) days after such latent defect first appears or could, by the exercise of reasonable care and due diligence, be ascertained or discovered by the Owner and/or any tenant.

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**§ 3.6 TAXES**

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

**§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS**

**§ 3.7.1** Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

**§ 3.7.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

**§ 3.7.3** If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

**§ 3.7.4 Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

**§ 3.7.5** If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

**§ 3.8 ALLOWANCES**

**§ 3.8.1** The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

**§ 3.8.2** Unless otherwise provided in the Contract Documents,

- .1 Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

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§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

**§ 3.9 SUPERINTENDENT**

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply within the 14 day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

**§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES**

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

**§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE**

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

**§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals

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upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

**§ 3.12.5** The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

**§ 3.12.6** By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

**§ 3.12.7** The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

**§ 3.12.8** The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and, a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

**§ 3.12.9** The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

#### **§ 3.13 USE OF SITE**

**§ 3.13.1** The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

**§ 3.13.2** The Contractor shall ensure that the Work, at all times, is performed in a manner that affords reasonable access, both vehicular and pedestrian, to the Project site and all adjacent areas. The Work shall be performed, to the

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fullest extent reasonably possible, in a manner that public areas adjacent to the Project site shall be free of all debris, building materials and equipment likely to cause hazardous conditions. Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of (1) any areas and buildings adjacent to the site of the Work, or (2) the Project in the event of partial occupancy, as more specifically described in Section 9.9.

**§ 3.13.3** The Contractor shall properly safeguard and store any combustible material necessary to the Work so as to protect against the possibility of fire or other damage. The Contractor shall be solely responsible for all damage, cost or expense caused by the use or storage of combustible materials at the Project site. The Contractor shall provide temporary weather tight enclosures for all exterior openings created by Contractor in connection with the Work, as soon as walls and roof are built and to the extent necessary to protect the Work from weather conditions and to allow the Work to be performed within the Contract Time.

#### **§ 3.14 CUTTING AND PATCHING**

**§ 3.14.1** The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

#### **§ 3.15 CLEANING UP**

**§ 3.15.1** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.

#### **§ 3.16 ACCESS TO WORK**

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

#### **§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS**

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

#### **§ 3.18 INDEMNIFICATION**

**§ 3.18.1** To the fullest extent permitted by law the Contractor shall indemnify, hold harmless and defend the Owner, Architect, the holder of any mortgage, deed to secure debt, deed of trust or other security instrument of like nature or any ground or underlying lease or other document of like nature on all or any portion of the real property upon which the Project is located, the respective shareholders, officers, directors, members, partners, employees, attorneys and agents, licensees and any holder of any beneficial interest in any of them, and any of their successors or assigns (collectively, the "Indemnified Parties") from and against, and will reimburse the Indemnified Parties with respect to any and all claims, actions, liability, losses, damages, costs and reasonable attorneys' fees and costs, at any time and from time to time asserted against or incurred by any of the Indemnified Parties arising out of, in connection with,

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resulting from or by reason of (a) the performance of the Work, (b) any breach of this Contract by Contractor, or (c) any negligent or willful act or omission of Contractor, its employees, a Subcontractor, Sub-subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether (but not including the extent to which) such claim, damage, loss or expense is caused in part by Indemnified Party. Owner will have the right of set off against all sums otherwise payable to Contractor under this Contract, any and all sums payable to Owner under this section. The Contractor's indemnity obligations under this section 3.18.1 shall, but not by way of limitation, specifically include all claims and judgments arising from violation of laws or ordinances and requirements of governing authorities due to the Contractor's or its Subcontractors method of execution of the Work. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

#### ARTICLE 4 ARCHITECT

##### § 4.1 GENERAL

§ 4.1.1 The Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

##### § 4.2 ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

##### § 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

Throughout the Project, the Owner (at its discretion) shall have the right to communicate directly with the Contractor, without involving the Architect, provided however that all communications involving design issues shall include the Architect (by direct participation or copy). In all events, all written communications between the

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Architect and Contractor shall be provided contemporaneously to the Owner. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate Contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 If so directed by Owner, Architect will prepare Change Orders and Construction Change Directives.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.12 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.13 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 4.2.14 The Architect shall be the representative of the Owner and shall have authority to act on behalf of the Owner only to the extent specifically so provided in this Contract. The Architect shall not be a general agent of the Owner

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and shall have no authority to act on behalf of the Owner, except as provided in this Contract or otherwise agreed in writing by the Owner. Specifically, the Architect has no authority to increase the Contract Sum, extend the Contract Time or change the scope of the Work (except and only for minor changes pursuant to Section 7.4.1). Such actions can only be directed by the Owner in a signed Change Order or CCD.

#### ARTICLE 5 SUBCONTRACTORS

##### § 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

##### § 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work.

§ 5.2.1.1 The Contractor shall make a best effort to obtain a minimum of three (3) bids for each portion of the Work from qualified Subcontractors and from suppliers of materials or equipment fabricated to a special design for the Work from the list previously reviewed. Contractor shall solicit bids from qualified subcontractors eligible to do business with the City of Chicago, and shall submit to Owner a summary of all Contractor's bids received including the name of all subcontractor, the nature of the work and the prices proposed (each, a "Bid Summary"). After thoroughly analyzing such bids, Contractor shall review such bids with the Owner and Architect. Subject to the reasonable objection of Owner or Architect and to the terms set forth in Exhibit B, the Contractor will then determine, which bids will be accepted. Contractor shall then refine and update the Bid Summary to include the reason for selecting the successful bidder, a summary of all subcontracts comprising the Contractor's Work, and other information as Owner may request from time to time. The Bid Summary shall thereafter be submitted by Owner to HED for its inspection and written approval. Once approved, Contractor and will issue subcontracts, in a form acceptable to Owner, to each successful bidder. Contractor shall deliver to Owner copies of all subcontracts promptly, and in any event within three (3) business days of the execution thereof. The Owner may designate specific persons or entities from whom the Contractor shall obtain bids; however, if the Guaranteed Maximum Price has been established, the Owner may not prohibit the Contractor from obtaining bids from other qualified bidders. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, HED or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, HED or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner, HED or Architect makes reasonable objection to such substitution.

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### § 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

### § 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

## ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

### § 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

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§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

#### § 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

#### § 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

### ARTICLE 7 CHANGES IN THE WORK

#### § 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement between the Owner and Contractor; a Construction Change Directive requires authorization by the Owner and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order or Construction Change Directive.

#### § 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument signed by the Owner and Contractor stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

#### § 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared signed by the Owner, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general

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scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.7.

§ 7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

(Paragraphs deleted)

#### ARTICLE 8 TIME

##### § 8.1 DEFINITIONS

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

##### § 8.2 PROGRESS AND COMPLETION

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

##### § 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control and which could not have been anticipated by Contractor; or by delay authorized by the Owner pending mediation; or by other causes that the Owner and Architect determine may reasonably justify delay, then the Contract Time shall be extended by Change Order to the extent of such actual delay, provided that Contractor has complied with the notice and other requirements set forth in Section 15 .

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

#### ARTICLE 9 PAYMENTS AND COMPLETION

##### § 9.1 CONTRACT SUM

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 Notwithstanding anything to the contrary contained in the Contract Documents, the Owner may withhold any payment to the Contractor hereunder if and for so long as the Contractor fails to perform any of its obligations hereunder or otherwise is in default under any of the Contract Documents; provided, however, that any such holdback shall be limited to an amount sufficient in the reasonable opinion of the Owner to cure any such default or failure of performance by the Contractor.

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## § 9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

## § 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Each Application for Payment submitted by the Contractor to the Owner and Architect shall itemize and identify the amounts within each application which the Contractor intends to pay to each Subcontractor for Work performed on the Project up to the date of each application, and shall set forth the amount of the contract balance with each such Subcontractor which will still be unpaid after payment of the amounts so itemized. The Contractor hereby agrees and is required to make payment, no later than seven (7) days after the receipt of payment from the Owner, to each Subcontractor of all amounts identified in each application for payment as intended for said Subcontractor. If Contractor does not intend to pay a Subcontractor for Work performed by such entity for the Project, Contractor shall so notify Owner in writing and explain the reason for the Contractor's decision not to make such payment. Owner shall thereafter withhold from Contractor the amounts so noted until Contractor represents that such payment will be made to the applicable Subcontractor, materialman or supplier. Contractor shall indemnify and hold harmless Owner from and against any costs, damages or expenses (including reasonable attorneys fees) incurred by Owner as a result of claims made by any Subcontractor who has performed Work for the Project but who Contractor decides not to pay for such Work. Each Application for Payment submitted by the Contractor shall be accompanied by: (i) a 770 ILCS 60/5 Sworn Contractor's Statement in form required by Owner or the City which shall include: (i) the name of every Subcontractor, supplier, laborer and/or materialman who has furnished labor or materials to the Project in connection with the Work; (ii) an itemized schedule showing the amount and general description of each of the expenses to be paid out of the amounts requested under such Application for Payment; (iii) the name and address of each payee entitled to payment; (iv) any unpaid Subcontractors and the amount, if any, due each of them; and (v) the amount of the draw request by the General Contractor certified by Contractor as true and correct; (2) a partial waiver of lien executed by the Contractor covering the entire amount of the payment requested by the relevant Application for Payment in a form acceptable to Owner, and (3) partial waivers of lien, executed by each Subcontractor performing work or furnishing supplies or materials for the Project, which partial waiver of lien shall be equal to the amount of all payments made by the Owner to the Contractor on behalf of such Subcontractor in all preceding Applications for Payment, in a form acceptable to the Owner.

§ 9.3.1.4 If any notices of contract, statements of claim with respect to unpaid costs for the performance of the Work or mechanics' or materialmen's liens (collectively, "Liens") are filed by any third party in connection with the Work and providing Owner payments to Contractor are current with respect to the amount owed on account of Work properly performed by such third party, Contractor shall promptly and in any event within ten (10) days after Contractor has actual knowledge of any such Liens to cause such Liens to be removed, bonded over, or insured over through a title indemnity account established with a major title insurer at Contractor's cost and expense as of such date. Contractor agrees to defend (with counsel reasonably approved by the applicable Indemnified Party),

indemnify and hold harmless the Indemnified Parties from any losses sustained by any of them as a result of the filing of such Liens. All costs and expenses associated with any Liens for which Contractor is responsible pursuant to this Section and which is filed or threatened to be filed shall be borne by Contractor alone. This provision shall survive termination of the Contract. Once the Contractor has removed of record any Liens for which the Contractor is responsible pursuant to this Section, then the Owner shall release all sums being held on account of such Liens as part of the payments made in response to the next succeeding payment application submitted by the Owner.

**§ 9.3.2** Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

**§ 9.3.3** The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

#### **§ 9.4 CERTIFICATES FOR PAYMENT**

**§ 9.4.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### **§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION**

**§ 9.5.1** The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's or Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;

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- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or
- .8 failure of Contractor to provide lien releases/waivers as required by Section 9.3.1.3.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

**§ 9.6 PROGRESS PAYMENTS**

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

**§ 9.7 FAILURE OF PAYMENT**

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended

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appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

#### **§ 9.8 SUBSTANTIAL COMPLETION**

**§ 9.8.1** Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use, and Owner has received all necessary permits, certificates and approvals (including, without limitation, approvals from the City of Chicago required pursuant to the Redevelopment Agreement) necessary, so that the Owner can permanently occupy or utilize the Work for its intended use, including, without limitation, a temporary or final certificate of occupancy issued by the applicable governmental authorities. Furthermore, in order to be deemed "Substantially Complete", the Work must only require the performance of "punchlist" items or other incomplete items as to otherwise agreed to by Owner for full and final completion of the Work.

**§ 9.8.2** When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

**§ 9.8.3** Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

**§ 9.8.4** When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

**§ 9.8.5** The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

#### **§ 9.9 PARTIAL OCCUPANCY OR USE**

**§ 9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

**§ 9.9.2** Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

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§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

**§ 9.10 FINAL COMPLETION AND FINAL PAYMENT**

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. As used in the Contract Documents, "Final Completion" shall mean, and final payment shall not be due to Contractor until, the proper and full completion of all of the Work, including but not limited to satisfactory operation of all equipment and systems, completion or correction of all punchlist items, and all items required under Section 9.10.2. The Owner agrees to make Final Payment to Contractor within fifteen (15) days after Final Completion has occurred and all of the requirements set forth in this Section have been satisfied. Contractor agrees that it shall, within ten (10) days after receipt of Final Payment from the Owner, submit final and unconditional lien waivers from all Subcontractors, Sub-subcontractors, suppliers, materialmen or others who provided services, materials or equipment to the Project (except for those persons covered by any bond or other security accepted as to amount, form and substance by Owner).

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) final lien waivers from Contractor and all Subcontractors, Sub-subcontractors, and any other party performing construction or installation services for any portion of the Project, establishing that all Work, including all labor performed and materials furnished through the time of such Final Completion have been paid in full, in forms acceptable to Owner (6) completion reports from the Architect on the standard AIA substantial completion form indicating that all Work has been substantially completed in accordance with the Contract Documents, (7) certificates of occupancy or other certificates from the appropriate Governmental Authorities and (8), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4  
(Paragraphs deleted)

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Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

*(Paragraph deleted)*

**ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

**§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

**§ 10.2 SAFETY OF PERSONS AND PROPERTY**

**§ 10.2.1** The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

**§ 10.2.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

**§ 10.2.3** The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

**§ 10.2.4** When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

**§ 10.2.5** The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

**§ 10.2.6** The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

**§ 10.2.7** The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

**§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY**

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

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### **§ 10.3 HAZARDOUS MATERIALS**

**§ 10.3.1** The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

**§ 10.3.2** Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

**§ 10.3.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

**§ 10.3.5** The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

**§ 10.3.6** If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

### **§ 10.4 EMERGENCIES**

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

## **ARTICLE 11 INSURANCE AND BONDS**

### **§ 11.1 CONTRACTOR'S LIABILITY INSURANCE**

**§ 11.1.1** The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by

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a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

#### § 11.2 OWNER'S LIABILITY INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

#### § 11.3 PROPERTY INSURANCE

§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project. The City of Chicago will be named an additional insured on a primary, non-contributory basis.

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§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss. If Builders Risk policy is provided by Contractor, deductibles for claims are deemed to be a of Cost of the Work and will be added via change order to the GMP.

§ 11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

#### § 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

#### § 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

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**§ 11.3.7 WAIVERS OF SUBROGATION**

The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, and the City of Chicago, its employees, elected officials, agents or representatives, for damages caused by fire or other causes of loss to the extent paid by property insurance obtained pursuant to this Section 11.3, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

**§ 11.3.8** A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

**§ 11.3.9** If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

**§ 11.3.10** The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

**§ 11.3.11** The City shall have the right to require Owner to modify, delete, alter or change these insurance requirements, and Contractor hereby acknowledges Owner's right to so modify, delete, alter or change such requirements, provided that any such changes do not increase the requirements set forth above.

**§ 11.4 PERFORMANCE BOND AND PAYMENT BOND**

**§ 11.4.1** Prior to commencing any portion of the Work which includes work on the public way, Contractor shall furnish a payment bond covering its payment of obligations as set forth in Exhibit B. The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

**§ 11.4.2** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

**ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

**§ 12.1 UNCOVERING OF WORK**

**§ 12.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

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§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

**§ 12.2 CORRECTION OF WORK**

**§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

**§ 12.2.2 AFTER SUBSTANTIAL COMPLETION**

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor unless the Contractor (a) already is aware of the condition; or (b) is not materially prejudiced by the delay in receiving late notice. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4. Nothing herein shall constitute a waiver or release by Owner of any rights that Owner may have against Contractor with respect to any obligations specified in this Section 12.2.2, whether such rights arise by contract, tort, at law or in equity.

§ 12.2.2.1.1 If prior to the date of Substantial Completion, Contractor, a Subcontractor or anyone for whom either is responsible uses or damages any portion of the Work, including, without limitation, mechanical, electrical, plumbing and other building systems, machinery, equipment or other mechanical devices, Contractor shall cause such item to be restored at no expense to Owner.

§ 12.2.2.1.1 Within thirty (30) days prior to the expiration of the one (1) year warranty period (as set forth in this Section), Owner and Contractor shall conduct an inspection of the Work to identify corrective warranty work to be performed by Contractor as required hereunder.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 Upon completion of any Work under or pursuant to this Section, the one (1) year correction period in connection with the Work requiring correction shall be renewed and shall recommence to run for a full one (1) year from the time of such completion if so agreed to by Contractor.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

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**§ 12.2.5** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

**§ 12.3 ACCEPTANCE OF NONCONFORMING WORK**

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

**ARTICLE 13 MISCELLANEOUS PROVISIONS**

**§ 13.1 GOVERNING LAW**

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

**§ 13.2 SUCCESSORS AND ASSIGNS**

**§ 13.2.1** The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

**§ 13.2.2** The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

**§ 13.3 WRITTEN NOTICE**

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

**§ 13.4 RIGHTS AND REMEDIES**

**§ 13.4.1** Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

**§ 13.4.2** No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

**§ 13.5 TESTS AND INSPECTIONS**

**§ 13.5.1** Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

**§ 13.5.2** If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written

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authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

#### § 13.6 INTEREST

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

#### § 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.

### ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

#### § 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

**§ 14.2 TERMINATION BY THE OWNER FOR CAUSE**

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 fails to furnish the Owner with assurances satisfactory to Owner evidencing the Contractor's ability to complete the Work in compliance with all of the requirements of the Contract Documents;
- .5 is adjudged bankrupt, or makes a general assignment for the benefit of creditors, or a receiver is appointed on account of insolvency; or
- .6 otherwise has committed a breach of the Contract, including, but not limited to, failure of Contractor to timely commence the Work, or to prosecute the Work in a diligent and skillful manner, or to complete the Work in accordance with the schedule for the Work, or to complete the Work on or before the Guaranteed Date of Substantial Completion or the deadline for Final Completion.

§ 14.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

**§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE**

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

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**§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE**

**§ 14.4.1** The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

**§ 14.4.2** Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

**§ 14.4.3** In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

**ARTICLE 15 CLAIMS AND DISPUTES**

**§ 15.1 CLAIMS**

**§ 15.1.1 DEFINITION**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

**§ 15.1.2 NOTICE OF CLAIMS**

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

**§ 15.1.3 CONTINUING CONTRACT PERFORMANCE**

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

**§ 15.1.4 CLAIMS FOR ADDITIONAL COST**

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

**§ 15.1.5 CLAIMS FOR ADDITIONAL TIME**

**§ 15.1.5.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

**§ 15.1.5.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

*(Paragraphs deleted)*

**§ 15.2 INITIAL DECISION**

**§ 15.2.1** Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30

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days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

**§ 15.2.2** The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

**§ 15.2.3** In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

**§ 15.2.4** If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

**§ 15.2.5** The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

**§ 15.2.6** Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

**§ 15.2.6.1** Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

**§ 15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

### **§ 15.3 MEDIATION**

**§ 15.3.1** Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.6 shall be subject to mediation as a condition precedent to binding dispute resolution.

**§ 15.3.2** The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the

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parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

#### § 15.4 ARBITRATION

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

#### § 15.4.4 CONSOLIDATION OR JOINDER

§ 15.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.

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Addendum to Agreement Between Owner and Contractor

Additional Terms, Conditions and Requirements Relating to the Work

This Addendum to Agreement Between Owner and Contractor ("Addendum") is attached to, and modifies and supplements, the terms and conditions of the Agreement Between Owner and Contractor (the "A102"), as supplemented by the General Conditions of Contract (the "A201", and together with the A102, the "Agreement") between Hillshire Brands Company ("Owner") and Clune Construction Company ("Contractor") with respect to the provision by Contractor of certain construction and related services for the interior construction of Hillshire Brands West Loop office facilities comprising of floors 1-4, Basement and Tower Floors 5 - 8, 400 S. Jefferson, Chicago, IL (the "Project"). The Agreement and this Addendum collectively constitute, and are referred to as, the "Contract". The provisions set forth below shall be in addition, and not in limitation of the terms and conditions set forth in the Agreement. Terms defined in the Agreement or this Addendum are used throughout the Contract in conformance with such definitions.

1. Contractor acknowledges and agrees that (i) Owner has or will enter into that certain Hillshire Brands Company Redevelopment Agreement with the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Housing and Economic Development ("HED"), relating to the development of the Project (the "Redevelopment Agreement"); (ii) pursuant to the Redevelopment Agreement, the Work includes work and services to be financed by the City; (iii) certain terms, conditions and requirements set forth in the Redevelopment Agreement apply to the Project generally and to the performance of and payment for the Work; and (iv) the terms of this Addendum memorialize certain additional terms, conditions and requirements applicable to the Work.
2. Contractor agrees that, with respect to the selection of the subcontractors to perform any Work (pursuant to the terms of paragraph 5.2.1.1 of the A201), Contractor shall select the subcontractors submitting the lowest responsible bids that can complete such Work in a timely manner (and otherwise in accordance with the Contract Time and Project schedule), unless otherwise agreed to by Owner and the City.
3. Contractor shall, prior to commencing any portion of the Work which includes work on the public way, furnish a payment bond(s) from surety(ies) authorized to transact business in the State in which the Project is located, having an AA rating and otherwise acceptable to Owner and the City. Such bond shall be in form and substance as required by the City, including the principal amount of the bond. The Owner and the City shall be named as obligees or co obligees on any such bonds. Contractor shall require the attorney in fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.
4. Contractor agrees, and shall cause each Subcontractor to agree, to comply with the Employment Requirements set forth on Schedule 1 attached hereto. Owner acknowledges, however, that the City shall impose the contracting, hiring and testing requirements for the MBE/WBE and City Residency obligations in Schedule 1 on an aggregate basis as to the applicable portions of the entire Project, and the failure of the Contractor to require each Subcontractor to satisfy, or the failure of any one Subcontractor to satisfy, such obligations shall not result in a default under this Contract so long as such Schedule 1 obligations are satisfied on an aggregate basis for the entire Project. Should Contractor fail to satisfy the Employment Requirements as set forth in this paragraph 4 and Schedule 1, Contractor and Owner agree that Contractor shall be liable to Owner for an amount equal to ten percent (10%) of the total amount of the Contractor's Fee (as described in paragraph 5.1.1 of the Agreement), and that such amount shall represent the total liability of Contractor to Owner as a result of such failure. The payment of the foregoing amount as damages for Contractor's failure to satisfy the Employment Requirements as set forth in this paragraph 4 and Schedule 1 shall not, however, diminish or limit Contractor's responsibility or liability for damages incurred by Owner as a consequence of improper or defective Work, or any act, event or omission, whatsoever, other than the above-referenced failure.

5. Any Change Order relating to either (i) the change in the use of the Project by Owner as Owner's headquarters, or (ii) an extension in the Contract Time that would cause the originally contemplated Substantial Complete set forth in paragraph 4.3 of the Agreement to be extended by a period exceeding six (6) months, shall require the City's prior written approval (in addition to the other terms and conditions relating to Change Order set forth in the Contract). Contractor shall be required to cause the foregoing acknowledgement of City's approval rights to be included in each subcontract entered into with any Subcontractor.

6. Contractor hereby agrees, and shall be obligated to cause each Subcontractor to agree, to pay the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all employees working on the Project. All contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's or Owner's request, Contractor shall provide the City or Owner, as the case may be, with copies of all such contracts entered into by Contractor or its Subcontractors to evidence compliance with this paragraph 6.

7. (a) In addition to, and without limiting the terms of paragraph 11 of the A201, Contractor agrees to deliver to Owner and the City of Chicago, Department of Housing and Economic Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing all required coverages, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of the Project. The receipt of any certificate does not constitute agreement by Owner or the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of Owner or the City to obtain certificates or other insurance evidence from Contractor shall not be deemed to be a waiver by Owner or the City. Contractor shall advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance shall not relieve Contractor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the Owner retains the right to terminate this Agreement until proper evidence of insurance is provided.

(b) The insurance shall provide for 30 days prior written notice to be given to Owner and the City in the event coverage is substantially changed, canceled, or non-renewed.

(c) Contractor agrees that insurers shall waive rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

(d) Contractor expressly understands and agrees that any coverages and limits furnished by Contractor shall in no way limit Contractor's liabilities and responsibilities specified within the Contract documents or by law.

(e) Contractor expressly understands and agrees that Contractor's insurance is primary and any insurance or self insurance programs maintained by Owner or the City of Chicago shall not contribute with insurance provided by Contractor under the Contract.

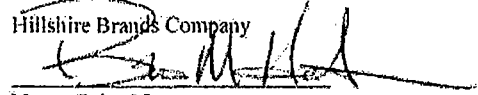
(f) The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.



This Addendum is entered into as of this \_\_\_ day of \_\_\_\_\_, 2012.

**Owner**

Hillshire Brands Company

  
Name: Brian Hunter  
Title: Vice President, Real Estate & Facility Services

**Contractor**

Clune Construction Company

\_\_\_\_\_  
Name: William L. Abromitis  
Title: President - Midwest

This Addendum is entered into as of this \_\_\_ day of \_\_\_\_\_, 2012.

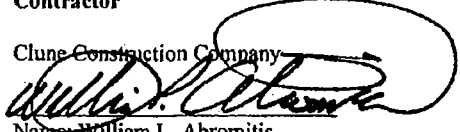
**Owner**

Hillshire Brands Company

\_\_\_\_\_  
Name: Brian Hunter  
Title: Vice President, Real Estate & Facility Services

**Contractor**

Clune Construction Company

  
Name: William L. Abromitis  
Title: President - Midwest

Schedule 1

**Employment Requirements**

1. **Employment Opportunity.** Contractor, on behalf of itself and its successors and assigns, hereby agrees, and shall be required hereby to contractually obligate its Subcontractors (collectively, with Contractor, the "Employers" and individually an "Employer") to agree, that for the period of time during which Work is being performed by such party on the Project:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 *et seq.*, Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Canal/Congress Redevelopment Project Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Canal/Congress Redevelopment Project Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, so that each such provision shall be binding upon each contractor or subcontractor, as the case may be.

2. **City Resident Construction Worker Employment Requirement.** Contractor, on behalf of itself and its successors and assigns, hereby agrees, and shall be required hereby to contractually obligate its Subcontractors to

agree, that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, Contractor and each Subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

"Actual residents of the City" shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

Contractor and each Subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of HED in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

Contractor and each Subcontractor shall provide full access to their employment records to the Chief Procurement Officer, the Commissioner of HED, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. Contractor and each Subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Rehabilitation Project.

At the direction of HED, affidavits and other supporting documentation will be required of Contractor and each Subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

3. **MBE/WBE Commitment.** Contractor agrees that during the Project:

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code of Chicago (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code of Chicago (the "Construction Program," and collectively with the Procurement Program, the "MBE/WBE Program"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Addendum, during the course of the Project, at least the following amounts shall be expended for contract participation by MBEs and by WBEs:

- (1) At least \$4,666,311.00 by MBEs.
- (2) At least \$777,719.00 by WBEs.

(b) For purposes of this Section 10.03 only, Contractor shall be deemed a "contractor" and this Contract shall be deemed a "contract" or a "construction contract" as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

(c) Contractor shall deliver reports to Owner upon request, and in any event quarterly so that Owner can timely present consolidated reports to the City's monitoring staff, describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, *inter alia*, the name and business address of each MBE and WBE solicited by Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining the compliance with this MBE/WBE commitment. Contractor shall deliver to Owner copies of all records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project and shall also maintain same for at least five years after completion of the Rehabilitation Project, and Owner and the City's monitoring staff shall have access to all such records maintained by the Contractor, on five Business Days' notice, to allow the Owner and/or the City to review Contractor's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

(e) Upon the disqualification of any MBE or WBE Subcontractor, if such status was misrepresented by the disqualified party, Contractor shall be obligated to discharge or cause to be discharged the disqualified Subcontractor, and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Sections 2-92-540 and 2-92-730, Municipal Code of Chicago, as applicable.

(f) Any reduction or waiver of the Contractor's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

(g) Prior to the commencement of the Project, Contractor and all major Subcontractors shall be required to meet with the City's monitoring staff with regard to compliance with its obligations under this Schedule. Prior to said meeting, Contractor and its Subcontractors shall cooperate with Owner in connection with Owner's obligation to demonstrate to the City's monitoring staff its plan to comply with the obligations applicable to Owner with respect to MBE/WBE requirements. During the Project, Contractor shall submit documentation necessary to allow Owner to comply with its reporting requirements set forth in the Redevelopment Agreement, including the following: (i) Subcontractor's activity report; (ii) Contractor's certification concerning labor standards and prevailing wage requirements; (iii) Contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that Contractor is not complying with its obligations under this Addendum, shall, upon the delivery of written notice to Contractor, be deemed a material breach of the Contract.

**Cilene Construction Company  
GMP**

Project: <b>Hillshire Brands - Chicago</b>	Insurance Date: <b>August 14, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Building Name: <b>400 South Jefferson</b>	Budget No.: <b>GMP</b>
Architect: <b>Perkins &amp; Will</b>	By: <b>WLAJUS</b>
MEP Engineer: <b>ESD</b>	Round Tables: <b>Yes</b>

Description	12-Jun-12		12-Jun-12		12-Jun-12		16-Aug-12		Variance (O/U)	GMP Cost per SF	MWBE Contract	MBE %	WBE %	MBE \$	WBE \$
	Budget (MBE)	Owner FFE	Combined	Final GMP											
	A	B	C	D	E										
02050 - Demolition	\$48,500	\$0	\$48,500	\$48,500	\$47,000	\$0.47	\$82,500	0.00%	5.00%	\$0.00	\$4,125.00				
03000 - Concrete	\$14,000	\$0	\$14,000	\$42,460	\$28,460	\$0.21	\$22,460	0.00%	0.00%	\$0.00	\$0.00				
04200 - Interior Masonry	\$0	\$0	\$0	\$5,400	\$5,400	\$0.03	\$0	0.00%	0.00%	\$0.00	\$0.00				
05120 - Structural Steel	\$32,800	\$0	\$32,800	\$0	(\$32,800)	\$0.00	\$0	0.00%	0.00%	\$0.00	\$0.00				
05500 - Structural / Misc Iron / Ornamental Metal	\$710,900	\$0	\$710,900	\$1,040,100	\$329,200	\$5.16	\$851,200	20.00%	2.00%	\$170,240.00	\$17,024.00				
06100 - Rough Carpentry	\$160,300	\$0	\$160,300	\$53,300	(\$107,000)	\$0.26	\$53,300	0.00%	0.00%	\$0.00	\$0.00				
06400 - Millwork	\$2,447,200	\$50,000	\$2,497,200	\$3,434,000	\$936,800	\$17.04	\$3,289,000	30.00%	2.00%	\$989,700.00	\$65,880.00				
07250 - Fireproofing / Roof Patching	\$7,800	\$0	\$7,800	\$27,000	\$19,200	\$0.13	\$24,200	0.00%	0.00%	\$0.00	\$0.00				
08700 - Frames / Doors / Hardware	\$344,600	\$0	\$344,600	\$542,500	\$197,900	\$2.69	\$527,480	30.00%	6.00%	\$158,244.00	\$31,648.80				
08800 - Glass and Glazing	\$1,078,500	\$0	\$1,078,500	\$387,700	(\$710,800)	\$1.82	\$316,535	30.00%	6.00%	\$94,860.50	\$18,962.10				
09250 - Drywall	\$1,568,400	\$0	\$1,568,400	\$1,340,800	(\$225,500)	\$6.65	\$1,285,240	30.00%	0.00%	\$385,572.00	\$0.00				
09300 - Ceramic / Quarry Tile	\$0	\$0	\$0	\$212,800	\$212,800	\$1.06	\$110,760	0.00%	100.00%	\$0.00	\$110,760.00				
09500 - Acoustic & Specialty Ceilings	\$189,700	\$0	\$189,700	\$429,300	\$239,600	\$2.63	\$490,500	30.00%	6.00%	\$147,150.00	\$29,430.00				
09800 - Carpet / Resilient	\$631,300	\$0	\$631,300	\$655,600	\$24,300	\$3.25	\$589,341	30.00%	6.00%	\$170,502.30	\$34,100.46				
09900 - Painting	\$581,200	\$0	\$581,200	\$878,200	\$297,000	\$4.36	\$481,000	30.00%	6.00%	\$144,300.00	\$28,860.00				
10600 - Operable Wall	\$128,000	\$0	\$128,000	\$179,450	\$51,450	\$0.89	\$177,250	0.00%	0.00%	\$0.00	\$0.00				
10800 - Toilet Partitions and Accessories	\$0	\$0	\$0	\$0	\$0	\$0.00	\$0	0.00%	0.00%	\$0.00	\$0.00				
11100 - Audio Visual	\$0	\$0	\$0	\$0	\$0	\$0.00	\$0	0.00%	0.00%	\$0.00	\$0.00				
11400 - Food Service Equipment	\$435,000	\$0	\$435,000	\$817,700	\$382,700	\$4.06	\$742,700	25.00%	5.00%	\$185,682.50	\$37,138.50				
11450 - Appliances	\$49,300	\$0	\$49,300	\$59,300	\$10,000	\$0.30	\$59,300	0.00%	0.00%	\$0.00	\$0.00				
12300 - Window Treatment	\$28,600	\$200,000	\$228,600	\$247,500	\$19,100	\$1.23	\$222,600	0.00%	25.00%	\$0.00	\$55,650.00				
14200 - Elevators	\$40,000	\$0	\$40,000	\$40,000	\$0	\$0.20	\$40,000	0.00%	0.00%	\$0.00	\$0.00				
15300 - Fire Protection	\$327,000	\$0	\$327,000	\$305,100	(\$24,900)	\$1.50	\$221,585	25.00%	0.00%	\$55,386.25	\$0.00				
15400 - Plumbing	\$211,000	\$0	\$211,000	\$399,900	\$188,900	\$1.85	\$315,725	30.00%	0.00%	\$94,717.75	\$0.00				
15500 - HVAC	\$2,457,600	\$0	\$2,457,600	\$2,778,825	\$321,225	\$13.78	\$2,585,000	35.00%	5.00%	\$804,750.00	\$129,250.00				
16000 - Electrical	\$4,641,000	\$0	\$4,641,000	\$8,014,200	\$3,373,200	\$24.85	\$4,800,000	25.00%	5.00%	\$1,150,000.00	\$200,000.00				
16700 - Communications / Sound Masking	\$0	\$911,200	\$911,200	\$520,140	(\$391,060)	\$2.58	\$327,740	25.00%	0.00%	\$114,709.00	\$0.00				
18000 - Security	\$0	\$175,000	\$175,000	\$120,000	(\$55,000)	\$0.60	\$115,000	0.00%	32.00%	\$0.00	\$36,800.00				
17200 - Final Cleaning	\$70,500	\$0	\$70,500	\$80,500	\$10,000	\$0.40	\$80,500	100.00%	0.00%	\$80,500.00	\$0.00				
17500 - Survey	\$20,800	\$0	\$20,800	\$20,800	\$0	\$0.10	\$20,800	0.00%	0.00%	\$0.00	\$0.00				
17900 - Overtime Allowance	\$0	\$0	\$0	\$109,000	\$109,000	\$0.50	\$20,000	0.00%	0.00%	\$0.00	\$0.00				
01001 - Direct Cost General Conditions	\$279,100	\$0	\$279,100	\$578,500	\$299,400	\$2.87	\$389,400	0.00%	17.00%	\$0.00	\$62,050.00				
Subtotal	\$16,639,200	\$1,336,000	\$17,975,200	\$20,474,375	\$2,500,175	\$101.59	\$18,065,248.00			\$4,761,278.50	\$891,806.68				
01000 - General Conditions	\$264,900	\$0	\$264,900	\$338,800	\$74,900	\$1.69	\$10,442,963.00			\$4,668,311.00	\$777,719.00				
01801 - Permit Allowance 0.80%	\$132,300	\$0	\$132,300	\$132,300	\$0	\$0.68	(\$1,437,717.00)			Over / Under	\$94,967.30	\$114,087.68			
01002 - Insurance 1.00%	\$169,400	\$0	\$169,400	\$206,445	\$37,045	\$1.04									
01002 - Builder's Risk Insurance	Excluded	Excluded	\$0	\$5,200	\$5,200	\$0.03									
Subtotal	\$17,105,800	\$1,336,000	\$18,441,800	\$21,161,140	\$2,719,340	\$105.00									
98020 - Fee 1.00%	\$171,100	\$0	\$171,100	\$211,610	\$40,510	\$1.05									
Subtotal	\$17,276,900	\$1,336,000	\$18,612,900	\$21,372,750	\$2,759,850	\$104.05									
98100 - Contingency	\$83,800	\$0	\$83,800	\$500,000	(\$416,200)	\$2.48									
Total	\$18,140,700	\$1,336,000	\$19,476,700	\$21,872,750	\$2,396,050	\$108.53									

GMP is based on the following documents:  
 1. Plans and W&E and ESD Drawings - Issued for Addendum No. 1 Date: 7/27/2012  
 2. Date: \_\_\_\_\_  
 3. Date: \_\_\_\_\_

NOTE: GMP EXCLUDES ALL ASSOCIATED ROOF & ROOF DECK SCOPE OF WORK

**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **02050 - Demolition**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Kinsale Contracting	\$82,500	0/5		\$82,500
4	US Dismantlement	\$93,057	1/0		
5	Brandenburg	Incomplete	0/0		
6					
7	Additional Demo at columns and pillars	1	ls	\$9,500.00	\$9,500
8	Demo Catwalk on 8th Fir Tower	1	budget	\$3,500.00	\$3,500
9					
10	Addendum No 1	Included			
11	Skylight Opening	Excluded - Deleted Scope			
12	4th Floor Mech Shaft (Kitchen Deletion)	Excluded - Deleted Scope			
13	4th Floor HD file Support Capital Cutting	Excluded - Deleted Scope			
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<b>02050 - Demolition</b>	<b>\$0.47 /sf</b>	<b>\$95,500</b>
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**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>03000 - Concrete</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Premium Concrete	\$27,200	0/0		
4	Alliance Specialty Trades	\$30,150	0/0		
5	Raffin Construction	\$22,458	0/0		\$22,460
6	TORE Construction	No Bid			
7					
8					
9	Concrete Pads				
10	Walk in Coolers / Refrigerators	1	ea	\$2,000.00	\$2,000
11	Patching at Spauled Ceiling Areas	4	firs	\$4,500.00	\$18,000
12					
13	Addendum No 1	Included			
14	Skylight Curb	Excluded - Deleted Scope			
15	4th Floor Mech Shaft work (Kitchen Deletion)	Excluded - Deleted Scope			
16	4th Floor HD file Support Grouting	Excluded - Deleted Scope			
17					
18					
19					
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45					
<b>03000 - Concrete</b>				<b>\$0.21 /sf</b>	<b>\$42,460</b>



**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **04200 - Interior Masonry**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Tuck point or minor repairs to exposed brick in Tower Conf	40	hrs	\$135.00	\$5,400
3					
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45					
<b>04200 - Interior Masonry</b>				<b>\$0.03 /sf</b>	<b>\$5,400</b>

**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>05120 - Structural Steel</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
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6					
7	<i>See Misc Iron</i>				
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<b>05120 - Structural Steel</b>	<i>Isf</i>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **05500 - Structural / Misc Iron / Ornamental Metal**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Davids Architectural Metals	\$869,200	15/0		
4	MTH Industries	\$851,200	20/2		\$851,200
5	Steel Construction Services	Incomplete	0/0		
6					
7	Monies for Chicago Residency ( hrs)	Included			
8	Addendum No 1 Pricing	Included			
9	Schedule and Crew Size	Included			
10	Steel at Skylight	Excluded - Deleted Scope			
11	4th Floor Mech Shaft work (Kitchen Deletion)	Excluded - Deleted Scope			
12	4th Floor HD file Support Steel	Excluded - Deleted Scope			
13	Mock up Cost	Included			
14	X Ray for Coring	1	ls	\$8,500.00	\$8,500
15	GL3 - Glass at Railing and Screenwall	1	ls	\$58,900.00	\$58,900
16	LEED Requirements and Reporting	Included			
17	Refinish bronze doors	5	ea	\$5,500.00	\$27,500
18	Rolling Doors Furnish and Install	1	ls	\$15,000.00	\$15,000
19	Metal Fencing, Posts, & Gates - 8'-0" ht.	1	ls	\$55,000.00	\$55,000
20	Rolling Doors Support Steel	2	ea	\$4,500.00	\$9,000
21	Testing - Steel	1	ls	\$15,000.00	\$15,000
22					
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<b>05500 - Structural / Misc Iron / Ornamental Metal</b>	<b>\$5.16 /sf</b>	<b>\$1,040,100</b>
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**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>06100 - Rough Carpentry</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	OSHA protection at the new stair opening / rework 2nd Flr	1	ls	\$6,500.00	\$6,500
3					
4	Plywood @IDF closets and Server room				In Drywall Bids
5	(4 x 8) sheets , Fire Treated				
6					
7	Install misc accessories at pantries	32	hrs	\$95.00	\$3,000
8					
9	HD File Platform (Assume plywood to surround rails)	2	ls	\$5,500.00	\$11,000
10					
11	In wall blocking for Wire mesh attachment in basement	40	hrs	\$110.00	\$4,400
12					
13	Protection labor, carpet, glass, millwork and BB	160	hrs	\$79.00	\$12,600
14	Material	1	ls	\$5,750.00	\$5,800
15					
16	Holsting protection and ramps	1	ls	\$6,500.00	\$6,500
17					
18	Install Wood Doors				In Drywall Bids
19					
20	Install Door Frames				In Drywall Bids
21					
22	Install Hardware Sets				In Drywall Bids
23					
24	Shaft Protection at Roof	1	ls	\$3,500.00	\$3,500
25					
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<b>06100 - Rough Carpentry</b>	<b>\$0.26 /sf</b>	<b>\$53,300</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **06400 - Millwork**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids (No Alternates):				
3	Bernhard	\$5,141,870	18 / 9		
4	Imperial	\$3,690,762	30 / 2		\$3,337,800
5	Parenti (Includes 1% Bond)	\$3,849,887	30 / 6		
6	Inter Ocean	Declined			
7					
8					
9					
10	Value Engineering:	Parenti		Imperial	
11	Alt 1 WD01 and MW01 - Reduced Area	(\$37,780.00)	ok	(\$42,140.00)	
12	Alt 2 Delete Credenzas at small Conf Rooms	(\$79,625.00)	17 ea	(\$44,898.00)	
13	Alt 3 Delete Stone Tops ST01 - Provide PL04 w/ wd edge				Not Accepted
14	Alt 4 Provide Gyp Soffit ILO wood at conf rooms				Not Accepted
15	Alt 5 Delete file surrounds (provide by furniture vendor)	(\$287,676.00)	53 ea	(\$152,210.00)	Accepted
16	Alt 6 Delete copy rm lower cabinets, replace w/ shelving	(\$40,588.00)	ok	(\$14,598.00)	Accepted
17	Alt 7 Eliminate trash cabinets, provide tops only				Not Accepted
18	Alt 8 Eliminate trash cabinets, provide free standing bins				Not Accepted
19	Alt 9 Delete bench at 4th flr dining				Not Accepted
20	Alt 10 Delete sculpture / frame at 8th floor conf	(\$12,141.00)	ok	(\$5,309.00)	Accepted
21	Alt 11 Delete reclaimed wood at 8th flr conf west wall				Accepted
22	Alt A Delete Fabric screens at open meeting				Not Accepted
23	Alt B Revise Hex beam trellis to stained Non FSC Oak	(\$87,221.00)		(\$63,382.00)	Accepted
24	Alt C Revise all WD3 to WD1				Not Accepted
25		(\$545,031)		(\$322,537)	
26					
27	Base Bid Parenti with approved Alternates	3,304,856		\$3,337,905	
28	Base Bid Imperial with approved Alternates	3,368,225		\$3,337,800	
29					
30	<b>Reception Area</b>				
31	Desk and rework of Reception not on current Add 1 set	1	ls	\$125,000.00	\$125,000
32					
33	Install files supplied to floor by furniture vendor				Furniture Vendor
34					
35	Artwork at 8th floor Conference (Sculpture Allowance)	1	allow	\$10,000.00	\$10,000
36					
37	Additional Wood Base at Removed Credenzas (VE Pricing 003)	1	ls	\$3,500.00	\$3,500
38					
39	Approved VE Pricing #018 - Eliminate Wood Base at Perimeter	1	ls	(\$42,336.00)	(\$42,300)
40	Walls. Rubber Base to Replace				
41					
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43					
44					
45					
<b>06400 - Millwork</b>					<b>\$3,434,000</b>

**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **07250 - Fireproofing / Roof Patching**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Misc patching and fireproofing at cores, core walls, elec rooms				
3	Labor (Clune)	80	hrs	\$79.00	\$6,300
4	Materials	1	ls	\$1,500.00	\$1,500
5					
6					
7	Fireproofing of new steel added for structural support	4	crew	\$2,300.00	\$9,200
8					
9	Roof Patching for MEP work	4	crew	\$2,500.00	\$10,000
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<b>07250 - Fireproofing / Roof Patching</b>	<b>\$0.13 /sf</b>	<b>\$27,000</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **08700 - Frames / Doors / Hardware**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	AA Jacobs	\$527,480	30 / 6		
4	Anderson Lock	\$536,570	30 / 6		\$527,480
5	Illini Hardware	\$572,120	0 / 100		
6	LaForce	No Bid			
7					
8					
9					
10					
11	Monies for Chicago Residency ( hrs)	N/A			
12	Addendum No 1 Pricing	Included			
13	Schedule and Crew Size	N/A			
14	LEED Requirements and Reporting	Included			
15	TIFF Reporting	Included			
16					
17	Custom Vinyl Glazing Strip at 9/16" Glass Locations	1	ls	\$5,000.00	\$5,000
18					
19	Revisions to Dr/Frame/HW per Submittal Review	1	ls	\$10,000.00	\$10,000
20					
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<b>08700 - Frames / Doors / Hardware</b>	<b>\$2.69 /sf</b>	<b>\$542,500</b>
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**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Rentable Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>08800 - Glass and Glazing</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Arch Glass Works	\$746,005	30 / 6		\$316,535
4	Christopher Glass	\$820,500	30 / 5		
5	Glass Solutions	\$780,815	25 / 0		
6	MTH	\$919,980	25 / 0		
7					
8	Monies for Chicago Residency ( hrs)	Included			
9	Addendum No 1 Pricing	Included			
10	Schedule and Crew Size	Included			
11	LEED Requirements and Reporting	Included			
12	TIFF Reporting	Included			
13					
14	Upsize GL-03 to 9/16" at Lites over 96"	1	ls	\$15,000.00	\$15,000
15					
16	Replace Sash Glass ILO Re-Using Existing	1	ls	\$25,000.00	\$25,000
17					
18	Remove existing windows for ventilation or hoisting	4	ea	\$2,800.00	\$11,200
19					
20	Value Engineering:	AGW		Glass Sol.	
21	Alt 1 3/8" C.T. Glass @ Hex. Offices/Pods				Not Accepted
22	Alt 2 3/8" C.T. Glass @ All GL-03 Locations	(\$307,110)		(\$344,038)	Accepted
23	Alt 3 Eliminate all Writable Backpainted Magnetic Glass	(\$122,360)		(\$92,240)	Accepted
24	Alt 4 3/8" C.T. Glass @ Balance of Conf Rms	(\$107,690)		(\$140,278)	N/A
25	Total Approved Alternates	(\$429,470)		(\$436,278)	
26					
27	Revised Base Bid Arch. Glass Works with approved Alternates	\$316,535			
28	Revised Base Bid Glass Solutions with approved Alternates	\$344,537			
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45					
<b>08800 - Glass and Glazing</b>				<b>\$1.82 /sf</b>	<b>\$387,700</b>



**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **09250 - Drywall**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Cassidy	\$1,285,240	30 / 0		\$1,285,240
4	Anning Johnson	\$1,557,900	30 / 6		
5	PCI Tempus	\$1,295,530	13 / 3		
6	RG Construction	Disqualified			
7					
8	Unistrut supports at Interior Conference Ceilings	Inc. Above			
9	Unistrut supports at Office Ceilings	Millwork Item			
10					
11	Monies for Chicago Residency ( hrs)	Included			
12	Addendum No 1 Pricing	Included			
13	Temp Office Cost	Included			
14	Schedule and Crew Size	Included			
15	X Ray for Coring	Excluded			
16	PM on site full time for duration of project	Included			
17	LEED Requirements and Reporting	Included			
18	Temporary Drywall & Ceilings for Field Office in Basement	1	ls	\$30,000.00	\$30,000
19	TIFF Reporting	1	ls	\$10,000.00	\$10,000
20					
21	Conference Rooms at 3rd Floor kitchens	2,954	sf	\$4.50	\$13,300
22					
23	Additional DW Reveals at Removed Credenzas (VE Pricing 003)	1	ls	\$2,425.00	\$2,400
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45					
<b>09250 - Drywall</b>				<b>\$6.65 /sf</b>	<b>\$1,340,900</b>

**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>09300 - Ceramic / Quarry Tile</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Trostrud	\$117,321	40 / 0		
4	SIMI	\$136,701	25 / 0	Unscoped	
5	Bourbon Tile	\$110,762	0/100		\$110,762
6					
7	Stone Tops at Millwork (SIMI Price)	1	ls	\$82,110.00	\$82,110
8					
9	Pitch Floor Drains in Test Kitchens (prep floor)	80	hrs	\$95.00	\$7,600
10					
11	Floor Prep Allowance	5,000	sf	\$2.00	\$10,000
12					
13	Monies for Chicago Residency ( hrs)	Included			
14	Addendum No 1 Pricing	Included			
15	Schedule and Crew Size	Included			
16	LEED Requirements and Reporting	Included			
17	TIFF Reporting	Included			
18					
19	Attic Stock of Ceramic/Quarry Tile	1	ls	\$2,350.00	\$2,400
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<b>09300 - Ceramic / Quarry Tile</b>	<b>\$1.06 /sf</b>	<b>\$212,900</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **09500 - Acoustic & Specialty Ceilings**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	AJ	\$592,900	30/6		
4	Airtite	\$571,500	30/6		\$571,500
5	Cassidy Bros	\$580,685	0/45		
6	RG	\$676,655	30/6		
7	PCI Tempus	607,662	30/6		
8					
9					
10	Ceiling Tile & Grid Patching - Trade Damage	240	hrs	\$95.00	\$22,800
11					
12					
13	Monies for Chicago Residency (hrs)	Included			
14	Addendum No 1 Pricing	Included			
15	Schedule and Crew Size	Included			
16	Hangers using Gripple fasteners / Aircraft cable	Included			
17	LEED Requirements and Reporting	Included			
18	TIFF Reporting	1	ls	\$5,000.00	\$5,000
19	Attic Stock Tile and Grid	1	ls	\$11,000.00	\$11,000
20					
21	Approved VE Pricing #013 - Provide Standard Color CLG-4 ILO	1	ls	(\$81,000.00)	(\$81,000)
22	Custom Color				
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<b>09500 - Acoustic &amp; Specialty Ceilings</b>				<b>\$2.63 /sf</b>	<b>\$529,300</b>

**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>09860 - Carpet / Resilient</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Flooring Resources	\$573,411	30 / 6		
4	Mr. Davids	\$568,641	30 / 6		\$568,641
5	Commerical Carpet	Dropped out of bidding			
6					
7	Floor Prep Allowance	201,530	sf	\$0.35	\$70,500
8					
9	Transitions B between Exposed Concrete and Carpet Tile				Incid w/ Fir Prep
10					
11	Monies for Chicago Residency ( hrs)	Included			
12	Addendum No 1 Pricing	Included			
13	Schedule and Crew Size	Included			
14	LEED Requirements and Reporting	Included			
15	TIFF Reporting	Included			
16					
17	Flooring in 3rd floor conference ILO Kitchens	289	sy	\$35.00	\$10,100
18					
19	Approved VE Pricing #018 - Eliminate Wood Base at Perimeter	1	ls	\$6,431.00	\$6,400
20	Walls. Rubber Base to Replace				
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<b>09860 - Carpet / Resilient</b>	<b>\$3.25 /sf</b>	<b>\$655,600</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **09900 - Painting**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Ascher Bros	\$470,000	30 / 6		\$470,000
4	Continental	\$494,620	100 / 0		
5	Pinnacle	\$638,000	N/A		
6	International	\$667,434	19 / 0		
7	Lohre	\$522,600	N/A		
8					
9	Supervison - preconstruction / painting	5	weeks	\$3,800.00	\$19,000
10					
11	Paint Existing Concrete Deck (International Dec)	1	Award	\$208,964.00	\$209,000
12					
13	Monies for Chicago Residency ( hrs)	Included			
14	Addendum No 1 Pricing	Included			
15	Schedule and Crew Size	Included			
16	LEED Requirements and Reporting	Included			
17	TIFF Reporting	Included			
18					
19	2 Coat Floor Sealer at Exposed Concrete Floors	100,765	sf	\$0.75	\$75,600
20					
21	Touch up Painting Walls, Concrete, stairs - 60 hrs / floor	320	hrs	\$100.00	\$32,000
22					
23	Paint Exposed Unistrut at M. Conference Rms / Offices	1	ls	\$30,000.00	\$30,000
24					
25	WC / Painting in 3rd floor conference ILO Kitchens	2,600	sf	\$4.00	\$10,400
26					
27	Attic Stock Paint & Wallcoverings	1	ls	\$9,180.00	\$9,200
28					
29	Edge Trim @ Cork WC-2 & WC-8 Locations	1	allow	\$12,000.00	\$12,000
30					
31	Approved VE Pricing 001, 002, 003 - Additional WC & Paint	1	ls	\$8,500.00	\$8,500
32					
33	Approved VE Pricing #017 - Provide Idea Paint Application ILO	1	ls	\$15,500.00	\$15,500
34	Backpainted Glass @ Conference Rooms				
35					
36	Approved VE Pricing #018 - Eliminate Wood Base at Perimeter	1	ls	(\$13,000.00)	(\$13,000)
37	Walls. Rubber Base to Replace				
38					
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45					
<b>09900 - Painting</b>				<b>\$4.36 /sf</b>	<b>\$878,200</b>

**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **10600 - Operable Wall**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Modernfold (Skyfold)	\$177,250	0 / 0		\$177,250
4					
5	Delete Training Room 2438 and provide Standard Skyfold	Included in Base Bid			
6					
7					
8	Chicago Residency (204 hours)	Included	25%		
9	Addendum No 1 Pricing	Included			
10	Schedule and Crew Size	Included			
11	LEED Requirements and Reporting	Included			
12	TIFF Reporting	Included			
13					
14	Chicago Residency Penalty Allowance	1	allow	\$2,215.00	\$2,200
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<b>10600 - Operable Wall</b>	<b>\$0.89 /sf</b>	<b>\$179,450</b>
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**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>10800 - Toilet Partitions and Accessories</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2					No Scope
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<b>10800 - Toilet Partitions and Accessories</b>	<b>/sf</b>	
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**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>11130 - Audio Visual</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	AV Allowance for the Following Rooms				Owner Contract
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<b>11130 - Audio Visual</b>	<b>Isf</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **11400 - Food Service Equipment**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Boelter	\$742,733	25 / 5		\$742,733
4	TriMark	\$752,104	0 / 0		
5					
6	Excludes 3rd Floor Kitchens West	Excluded			
7	Add In for 4th floor new equipment due to deleting 3rd floor	1	ls	\$50,000.00	\$50,000
8	Sales Tax Adjustment - City of Chicago	1	ls	\$25,000.00	\$25,000
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<b>11400 - Food Service Equipment</b>	<b>\$4.06 /sf</b>	<b>\$817,700</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **11450 - Appliances**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Plass	\$63,128	0 / 0		
4	S & B Sales	\$65,000	0 / 0		
5	ABT	\$59,527	0 / 0		\$59,527
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<b>11450 - Appliances</b>	<b>\$0.30 /sf</b>	<b>\$59,500</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **12500 - Window Treatment**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	House of Roland	\$380,900	0 / 25		\$380,900
4	CDC Group	\$474,101	20 / 0		
5	Interior Concepts	Alt Spec			
6					
7	Allowance to Provide Motorized Mechoshades at 8th Floor	1	ls	\$25,000.00	\$25,000
8	Conference Room ILO Manual Shades				
9					
10	Approved VE Pricing #019 - Provide 1" Horizontal Mini Blinds	1	ls	(\$115,400.00)	(\$115,400)
11	ILO Roller Shades at Floors 1-4. Shades to Remain on Tower Flrs				
12					
13	Approved VE Pricing #020 - Provide DX-01 & DX-02 w/ \$29/yard	1	ls	(\$42,900.00)	(\$42,900)
14	Fabric Allowance				
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<b>12500 - Window Treatment</b>	<b>\$1.23 /sf</b>	<b>\$247,600</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **14200 - Elevators**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Allowance to relocate existing call buttons and lanterns	4	firs	\$10,000.00	\$40,000
3	to accommodate the new wall finish construction				
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<b>14200 - Elevators</b>	<b>\$0.20 /sf</b>	<b>\$40,000</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **15300 - Fire Protection**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Great Lakes	\$257,940	0 / 0	Scoped	
4	Millenium	\$257,700	0 / 2	Scoped	
5	Nova	\$221,585	25 / 0	Scoped	\$221,585
6	Superior	\$286,932	0 / 0	Unscoped	
7					
8	Delete 3rd Floor Kitchens	Included			
9	BIM for Kitchen work	Included			
10	Monies for Chicago Residenc y (968 hrs)	Included			
11	Addendum No 1 Pricing	Included			
12	Schedule and Crew Size	Included			
13	X Ray for Coring	Included			
14	TIFF Reporting	1	ls	\$5,250.00	\$5,300
15	MEP Coordination	2	weeks	\$3,680.00	\$7,400
16	Added Heads at Open Meeting and 2 levels of heads at large mtg	88	ea	\$225.00	\$19,800
17	Allowance to rework existing sprinkler piping to accommodate	4	firs	\$4,500.00	\$18,000
18	lighting and ductwork conflicts				
19	Relocate branch li nes at ceiling cloud areas	4	firs	\$7,500.00	\$30,000
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<b>15300 - Fire Protection</b>	<b>\$1.50 /sf</b>	<b>\$302,100</b>
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**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>15400 - Plumbing</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Great Lakes	\$315,725	3 / 0	Scoped	\$315,725
4	Millenium	\$319,750	0 / 0	Scoped	
5	R Carozza	\$377,300	0 / 0	Unscoped	
6					
7					
8	Alternate: Deduct Kitchens on 3rd Floor			Included in above Bids	
9					
10	Coordination of Beam in Bsmt level for drain piping	Included			
11	BIM for kitchen work	Included			
12	Humidification Piping for HVAC - Not Req'd	N/A			
13	Monies for Chicago Residenc y (800 hrs)	7,893	dlrs		\$7,893
14	Addendum No 1 Pricing	Included			
15	Schedule and Crew Size	Included			
16	X Ray for Coring	1	ls	\$45,000.00	\$45,000
17	TIFF Reporting	1	ls	\$5,250.00	\$5,300
18	MEP Coordination	3	weeks	\$3,680.00	\$11,000
19	Add additional MBE (25% total)	1	ls	\$8,000.00	\$8,000
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<b>15400 - Plumbing</b>	<b>\$1.95 /sf</b>	<b>\$392,900</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **15500 - HVAC**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Admiral Heating (Incls Add1, PT, MWBE)	\$2,585,000	35 / 5	Scoped	\$2,585,000
4	GT Mechanical	\$2,897,000	11 / 0	No Addendum	
5	Hill Mech (Incls Add1, PT, MWBE)	\$2,590,000	25 / 0	Scoped	
6	Westside Mech	\$2,921,440	0 / 0	No Addendum	
7					
8	Scope Review Adds/Deducts	Included Above			
9					
10	Alternate: Deduct Kitchens on 3rd Floor				Included in Bid Amounts
11					
12					
13					
14	BIM for kitchen work	Included			
15	Humidification Piping for HVAC - Not Req'd	N/A			
16	Monies for Chicago Residency (8,200 hrs)	Included			
17	Addendum No 1 Pricing	Included			
18	Temporary HVAC for Basement Job offices	1	ls	\$7,800.00	\$7,800
19	Schedule and Crew Size	Included			
20	Radar / Sonar for Coring	1	ls	\$7,500.00	\$7,500
21	Quick Ship VAV Boxes	1	ls	\$51,825.00	\$51,825
22	PM on site full time for duration of project	Included			
23	Field Mount VAV controls	Included			
24	ABC controls including OT for schedule	Included			
25	Hangers using Gripple fasteners / Aircraft cable	Included			
26	LEED Requirements and Reporting	Included			
27	Duct is fab'd with paint grip	Included			
28	Paint returns black, Filters included on boxes including replacement	Included			
29	PITO readings off supply duct	Included			
30	Pressure Test MP take offs	Included			
31	Training of building and tenant staff	Included			
32	TIFF Reporting	1	ls	\$10,000.00	\$10,000
33	MEP Coordination	4	weeks	\$3,680.00	\$14,700
34	Specification Fire Damper Allowance	1	ls	\$50,000.00	\$50,000
35	Rework / relocate BB work to accommodate Hillshire buildout	1	allow	\$50,000.00	\$50,000
36	Add back base building radiator panels				Base Building Cost Item
37	Conference Room at 3rd				
38					
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46					
<b>15500 - HVAC</b>				<b>\$13.78 /sf</b>	<b>\$2,776,826</b>

**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **16000 - Electrical**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLAJS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final Bids:				
3	Continental (Includes Add 1, Phillips, Radar, Hoist PT)	\$5,017,645	35 / 10	Scoped	
4	Gibson (Includes Add 1, Crestron, PT, MWBE\$, Radar)	\$5,192,000	30 / 6	Scoped	
5	Maron Electric (Add 1, PT, MWBE, Radar, Phillips)	4,774,000	25 / 5	Scoped	\$4,774,000
6	REX Electric (Add 1, Phillips, PT, MWBE, XRAY)	4,824,690	30 / 5	Scoped	
7					
8	Scope Review Adds/Deducts	Included			
9					
10	Alternate: Deduct Kitchens on 3rd Floor				In Base Bid Amounts
11					
12	BIM for kitchen work	Included			
13	Monies for Chicago Residency (8,200 hrs)	Included			
14	Addendum No 1 Pricing	Included			
15	Temporary Electric (Maron) for Basement Job offices	1	ls	\$12,000.00	\$12,000
16	Schedule and Crew Size	Included			
17	X Ray ILO Radar for Coring	1	ls	\$50,000.00	\$50,000
18	PM on site full time for duration of project	Included			
19	Base Bldg L/S Sub including OT for schedule	Included			
20	Hangers using Gripple fasteners / Aircraft cable	Included			
21	LEED Requirements and Reporting	Included			
22	Training of building and tenant staff	Included			
23	TIFF Reporting	1	ls	\$10,000.00	\$10,000
24	MEP Coordination	4	weeks	\$3,680.00	\$14,700
25	Attic Stock Requirements (10% Ballasts and Lamps)	1	ls	\$10,000.00	\$10,000
26	ESD drawing Allowances - L/S, Exit, Speakers	1	ls	\$84,600.00	\$84,600
27	F/A tie between Kitchen Equipment and L/S	1	ls	\$20,000.00	\$20,000
28	Electrical at New Conference Rooms at 3rd Floor	2,592	sf	\$15.00	\$38,900
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<b>16000 - Electrical</b>				<b>\$24.88 /sf</b>	<b>\$5,014,200</b>



**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>16700 - Communications / Sound Masking</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	<b>Communications Equipment, Cabling, &amp; Devices</b>				
3	Final Bids:				
4	Continental (BerkTek)	\$352,944	40 / 6	Scoped	
5	Gibson (Comscope)	\$327,740	35 / 0	Scoped	\$327,740
6	Maron Electric (Comscope)	\$390,000	30 / 6	Scoped	
7	REX Electric (Uniprise / Ortronics)	\$327,740	30 / 6	Scoped	
8					
9	Monies for Chicago Residency ( hrs)	Included			
10	Addendum No 1 Pricing	Included			
11	Schedule and Crew Size	Included			
12	LEED Requirements and Reporting	Included			
13	TIFF Reporting	Included			
14	Add No 1 - Soundmasking (Allowance)	1	Allow	\$175,000.00	\$175,000
15	Move and Cutover Assistance (Per Hillshire)	80	hrs	\$155.00	\$12,400
16	Temporary Data/Phones (Gibson) for Basement Job offices	1	ls	\$5,000.00	\$5,000
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<b>16700 - Communications / Sound Masking</b>		<b>\$2.58 /sf</b>			<b>\$520,140</b>

**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **16800 - Security**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Security Allowance	1	allow	\$120,000.00	\$120,000
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<b>16800 - Security</b>	<b>\$0.60 /sf</b>	<b>\$120,000</b>
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**Clune Construction Company  
GMP Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>17200 - Final Cleaning</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Final construction clean	201,530	sf	\$0.40	\$80,600
3	(Owner should contract direct with vendor)				
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<b>17200 - Final Cleaning</b>	<b>\$0.40 /sf</b>	<b>\$80,600</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **17500 - Survey**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Conduct survey of existing for layout and coordination of MEP	160	hrs	\$125.00	\$20,000
3	(40 Hours per floor)				
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<b>17500 - Survey</b>	<b>\$0.10 /sf</b>	<b>\$20,000</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **01001 - Direct Cost General Conditions**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	** Clean Up Labor				
3	Straight Time - 4.5 laborers average for 18 weeks	3,240	hrs	\$78.00	\$252,700
4	Time and one-half - Allowance	1	ls	\$75,000.00	\$75,000
5					
6	Clune - MBE / TIF recording and documentation service	1	ls	\$20,000.00	\$20,000
7					
8	Dumpsters for construction clean up	88	ea	\$410.00	\$36,100
9					
10	Dumpsters for furniture and move	32	ea	\$410.00	\$13,100
11					
12	** Hoist Operator				
13	Straight Time	796	hrs	\$95.00	\$75,600
14	Double Time	450	hrs	\$190.00	\$85,500
15					
16	Temp Toilets - Staff and Trades, Rental and Field Office	216	weeks	\$75.00	\$16,200
17					
18	Reproduction Costs (ADD and IFC)	1	ls	\$4,250.00	\$4,300
19					
20	** Billable Clune Rates				
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<b>01001 - Direct Cost General Conditions</b>	<b>\$2.87 /sf</b>	<b>\$578,500</b>
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**Clune Construction Company  
GMP Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **01000 - General Conditions**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	Clune Construction General Conditions (LUMP SUM)				
3					
4	Misc Tools and Equipment				\$4,725
5	Messenger Service				\$1,050
6	Job Office Supplies				\$1,575
7	Local Travel				\$1,575
8	Telephones				\$3,150
9	Project Management (Abromitis -60% Average)	25	weeks		No Charge
10	Project Management (Stanek -100% Full Time)	25	weeks	\$3,680.00	\$92,000
11	* APM (Lipinski - 100% Full Time)	22	weeks	\$3,000.00	\$66,000
12	Superintendent No 1 - Brasher 100% Full Time	23	weeks	\$3,680.00	\$84,600
13	Superintendent No 2 - Fouch 100% Full Time	23	weeks	\$3,680.00	\$84,600
14	Reproduction Costs (Bidding Only)				\$525
15					
16	Schedule - Precon, Bidding, Start-up	27-Jul-12	17-Aug-12	3.00	
17	Construction	13-Aug-12	14-Dec-12	18.00	
18	Closeout	14-Dec-12	15-Feb-13	9.00	
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<b>01000 - General Conditions</b>	<b>\$1.69 /sf</b>	<b>\$339,800</b>
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**Clune Construction Company  
Value Engineering Pricing Summary**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>N/A</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	1. WD-01 Walls at Elevator Lobbies - 2nd thru 4th Floors				Included in GMP
3	2. MW-01 Walls at Elevator Lobbies - 2nd thru 4th Floors				Included in GMP
4	3. Eliminate Millwork Credenza's at Small Conference Rooms				Included in GMP
5	4. Change ST-01 Tops to PL-4 Tops at Small Conference Rooms				Not Accepted
6	5. Eliminate WD-01 Soffits at Conference Rooms & Provide Drywall				Not Accepted
7	6. Eliminate Millwork File Surrounds at Open Office Areas				Included in GMP
8	7. Change Copy Rm Lower Cabinets to Vertical Supports & Adjustable Shelves				Included in GMP
9					
10	8. Change Copy Rm Trash/Recycle Cabinets to Continuous Plam Countertops with Intermediate Supports				Not Accepted
11					
12	9. Eliminate Copy Rm Trash/Recycle Cabinets Entirely				Not Accepted
15	10. Eliminate Built In Bench at 4th Floor Caf� Dining Area				Not Accepted
16	11. Eliminate Sculpture / Frame at 8th Floor Conference Rm				Included in GMP
17	12. Eliminate ReClamed Wood from West Wall in 8th Fir Conf. Rm				Not Accepted
18	13. Provide Standard Color CLG-04 Tile/Grid in Lieu of Custom Color				Included in GMP
19	14. Reduce CLG-04 Ceiling Clouds to 8'0" x 16'0"				Not Accepted
20	15. Provide 3/8" Clear Tempered Glass at Hexagon Offices and Conf. Rms in Lieu of GL-03				Not Accepted
21					
22	16. Provide 3/8" Clear Tempered Glass in Lieu of GL-03 at All Locations				Included in GMP
23					
24	17. Eliminate all writable backpainted magnetic glass and replace with IDEA Paint application				Included in GMP
25					
26	18. Eliminate Wood Base at Perimeter Open Office Areas. Replace with Rubber Base				Included in GMP
27					
28	19. Provide 1" Horizontal Mini Blinds ILO Roller Shades at Floors 1 - 4. Rollers Shades in the Tower Openings to Remain.				Included in GMP
29					
30	20. Provide DX-01 and DX-02 Drapery w/ \$29/yard Fabric Allow.				Included in GMP
31	21. Provide DX-01 and DX-02 Drapery w/ \$21/yard Fabric Allow.				Not Accepted
32	22. Provide DX-03 with PVC Fabric #1300 series ILO Specified Fabric				Not Accepted
33	23. Provide DX-04 with PVC Fabric #1500 series ILO Specified Fabric				Not Accepted
34	24. Eliminate Test Kitchen 3600, Test Kitchen 3700, Walk In Freezer 3430, & Walk In Fridge 3431. Provide Allowance for Conference Room Finishes				Included in GMP
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**Value Engineering Pricing Summary**

**Clune Construction Company  
Value Engineering Pricing Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **N/A**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	<b>Value Engineering Pricing #001 &amp; #002</b>				
3	<b>Reduce the location and square footage quantity of the</b>				
4	<b>WD-01 &amp; MW-01 product at each of the 2nd, 3rd, and 4th</b>				
5	<b>floor lobbies. Wrap will be only 5'0" on each side ILO</b>				
6	<b>what is indicated on the current plans.</b>				
7					
8	<b>06400 - Millwork</b>	1	ls	(\$44,140)	(\$44,100)
9	<b>09900 - Paint</b>	1	ls	\$2,000	\$2,000
10			<b>Total</b>	<b>(\$42,100)</b>	
11	<b>Value Engineering Pricing #003</b>				
12	<b>Eliminate millwork credenza at small conference rooms</b>				
13	<b>at each floor. Credenza will become a furniture item.</b>				
14					
15	<b>06400 - Millwork</b>	1	ls	(\$44,898)	(\$44,900)
16	<b>09250 - Drywall</b>	1	ls	\$2,425	\$2,400
17	<b>09900 - Paint</b>	1	ls	\$6,500	\$6,500
18			<b>Total</b>	<b>(\$36,000)</b>	
19	<b>Value Engineering Pricing #004</b>				
20	<b>Eliminate stone credenza tops (ST-01), replace with</b>				
21	<b>Plam top with Marine ply edge (17-ply Baltic Birch</b>				
22	<b>core and edge). Reference PL-04 spec</b>				
23					
24	<b>06400 - Millwork</b>	1	ls	(\$54,519)	(\$54,500)
25			<b>Total</b>	<b>(\$54,500)</b>	
26	<b>Value Engineering Pricing #005</b>				
27	<b>Eliminate reclaimed wood soffits at conference rooms</b>				
28	<b>and provide a gypsum board soffit.</b>				
29					
30	<b>06400 - Millwork</b>	1	ls	(\$166,095)	(\$166,100)
31	<b>09250 - Drywall</b>	1	ls	\$2,275	\$2,300
32	<b>09900 - Paint</b>	1	ls	\$500	\$500
33			<b>Total</b>	<b>(\$163,300)</b>	
34	<b>Value Engineering Pricing #006</b>				
35	<b>Eliminate millwork file surrounds. To be included in the</b>				
36	<b>furniture package.</b>				
37					
38	<b>06400 - Millwork</b>	1	ls	(\$152,210)	(\$152,200)
39			<b>Total</b>	<b>(\$152,200)</b>	
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Value Engineering Pricing Backup Cont. on Next Page



**Clune Construction Company  
Value Engineering Pricing Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **N/A**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	<b>Value Engineering Pricing #007</b>				
3	<b>At all copy areas, in lieu of lower cabinets and shelves,</b>				
4	<b>replace with plam vertical supports and adj. shelves.</b>				
5					
6	<b>06400 - Millwork</b>	1	ls	(\$14,598)	(\$14,600)
7			<b>Total</b>	<b>(\$14,600)</b>	
8	<b>Value Engineering Pricing #008</b>				
9	<b>At all copy areas, in lieu of trash/recycle cabinets,</b>				
10	<b>provide continuous plam countertop with intermediate</b>				
11	<b>supports. Trash/recycle bins to remain exposed.</b>				
12					
13	<b>06400 - Millwork</b>	1	ls	(\$15,349)	(\$15,300)
14			<b>Total</b>	<b>(\$15,300)</b>	
15	<b>Value Engineering Pricing #009</b>				
16	<b>At all copy areas, in lieu of trash/recycle cabinets,</b>				
17	<b>eliminate entirely. Hillshire to purchase trash/recycle</b>				
18	<b>unites with integral covers/lids.</b>				
19					
20	<b>06400 - Millwork</b>	1	ls	(\$50,908)	(\$50,900)
21			<b>Total</b>	<b>(\$50,900)</b>	
22	<b>Value Engineering Pricing #010</b>				
23	<b>Eliminate built in bench at 4th floor café dining area.</b>				
24					
25	<b>06400 - Millwork</b>	1	ls	(\$20,112)	(\$20,100)
26			<b>Total</b>	<b>(\$20,100)</b>	
27	<b>Value Engineering Pricing #011</b>				
28	<b>Eliminate the Sculpture and Frame at the 8th Floor</b>				
29	<b>Conference Room</b>				
30					
31	<b>06400 - Millwork</b>	1	ls	(\$5,309)	(\$5,300)
32			<b>Total</b>	<b>(\$5,300)</b>	
33					
34	<b>Value Engineering Pricing #012</b>				
35	<b>Eliminate Reclai med Wood from the West Wall at the</b>				
36	<b>8th Floor Conference Room</b>				
37					
38	<b>06400 - Millwork</b>	1	ls	(\$10,441)	(\$10,400)
39	<b>09250 - Drywall</b>	1	ls	\$500	\$500
40	<b>09900 - Paint</b>	1	ls	\$150	\$200
41			<b>Total</b>	<b>(\$9,700)</b>	
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**Value Engineering Pricing Backup** **Cont. on Next Page**

**Clune Construction Company  
Value Engineering Pricing Back-Up**

Project: <b>Hillshire Brands - Chicago</b>	Budget Date: <b>August 16, 2012</b>
Address: <b>400 South Jefferson</b>	Construction Area (sf): <b>201,530</b>
Architect: <b>Perkins &amp; Will</b>	Budget No.: <b>GMP</b>
MEP Engineer: <b>ESD</b>	Checked By: <b>WLA/JS</b>
Trade: <b>N/A</b>	Round Totals?: <b>Yes</b>

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	<b>Value Engineering Pricing #013</b>				
3	<b>Provide CLG-4 acoustic ceiling clouds in a manufacturer's</b>				
4	<b>standard color in lieu of a custom color</b>				
5					
6	<b>09500 - Acoustic</b>	1	ls	(\$81,000)	(\$81,000)
7			<b>Total</b>	(\$81,000)	
8	<b>Value Engineering Pricing #014</b>				
9	<b>Reduce CLG-04 ceiling clouds from 8'0" x 24'0" to</b>				
10	<b>8'0" x 16'0"</b>				
11				Est. Plug Value.	
12	<b>09500 - Acoustic</b>	1	ls	(\$60,000)	(\$60,000)
13			<b>Total</b>	(\$60,000)	
14	<b>Value Engineering Pricing #015</b>				
15	<b>Provide 3/8" clear tempered glass at the hexagon offices</b>				
16	<b>and conference rooms in lieu of GL-03. (PODS only)</b>				
17					
18	<b>08800 - Glass &amp; Glazing</b>	1	ls	(\$199,420)	(\$199,400)
19			<b>Total</b>	(\$199,400)	
20	<b>Value Engineering Pricing #016</b>				
21	<b>Provide 3/8" clear tempered glass in lieu of GL-03</b>				<b>NOTE: CANNOT BE COMBINED WITH ALT. #015</b>
22	<b>throughout the project (All Locations).</b>				
23					
24	<b>08800 - Glass &amp; Glazing</b>	1	ls	(\$307,110)	(\$307,100)
25			<b>Total</b>	(\$307,100)	
26	<b>Value Engineering Pricing #017</b>				
27	<b>Eliminate all writable backpainted magnetic glass.</b>				
28	<b>Replace with IDEA paint application</b>				
29					
30	<b>08800 - Glass &amp; Glazing</b>	1	ls	(\$122,360)	(\$122,400)
31	<b>09900 - Painting</b>	1	ls	\$15,500	\$15,500
32			<b>Total</b>	(\$106,900)	
33	<b>Value Engineering Pricing #018</b>				
34	<b>Eliminate wood base at the perimeter open office areas.</b>				
35	<b>Replace with rubber base (2,400 lf)</b>				
36					
37	<b>06400 - Millwork</b>	1	ls	(\$42,336)	(\$42,300)
38	<b>09680 - Carpet &amp; Resilient</b>	1	ls	\$6,431	\$6,400
39	<b>09900 - Painting</b>	1	ls	(\$13,000)	(\$13,000)
40			<b>Total</b>	(\$48,900)	
41					
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45					
<b>Value Engineering Pricing Backup</b>					<b>(\$803,300)</b>

**Clune Construction Company  
Value Engineering Pricing Back-Up**

Project: **Hillshire Brands - Chicago**  
 Address: **400 South Jefferson**  
 Architect: **Perkins & Will**  
 MEP Engineer: **ESD**  
 Trade: **N/A**

Budget Date: **August 16, 2012**  
 Construction Area (sf): **201,530**  
 Budget No.: **GMP**  
 Checked By: **WLA/JS**  
 Round Totals?: **Yes**

Item #	Description	Qty	Unit	\$/Unit	Total
1					
2	<b>Value Engineering Pricing #019</b>				
3	<b>Provide 1" horizontal mini blinds on floors 1-4 in lieu of</b>				
4	<b>roller shades. Keep drapery on all floors and roller</b>				
5	<b>shades in the tower floors.</b>				
6					
7	<b>12500 - Window Treatments</b>	1	ls	(\$115,400)	(\$115,400)
8			<b>Total</b>	(\$115,400)	
9	<b>Value Engineering Pricing #020</b>				
10	<b>Provide DX-01 and DX-02 manual drapery with a fabric</b>				
11	<b>allowance of \$29 / yd</b>				
12					
13	<b>12500 - Window Treatments</b>	1	ls	(\$42,905)	(\$42,900)
14			<b>Total</b>	(\$42,900)	
15	<b>Value Engineering Pricing #021</b>				
16	<b>Provide DX-01 and DX-02 manual drapery with a fabric</b>				
17	<b>allowance of \$21 / yd</b>				
18					
19	<b>12500 - Window Treatments</b>	1	ls	(\$49,375)	(\$49,400)
20			<b>Total</b>	(\$49,400)	
21	<b>Value Engineering Pricing #022</b>				
22	<b>Provide DX-03 with PVC Fabric #1300 series in lieu of</b>				
23	<b>specified fabric</b>				
24					
25	<b>12500 - Window Treatments</b>	1	ls	(\$4,800)	(\$4,800)
26			<b>Total</b>	(\$4,800)	
27	<b>Value Engineering Pricing #023</b>				
28	<b>Provide DX-04 with PVC Fabric #1500 series in lieu of</b>				
29	<b>specified fabric</b>				
30					
31	<b>12500 - Window Treatments</b>	1	ls	(\$16,000)	(\$16,000)
32			<b>Total</b>	(\$16,000)	
33	<b>Value Engineering Pricing #024</b>				
34	<b>Eliminate Test Kitchen 3600, Test Kitchen 3700, Walk In</b>				
35	<b>Freezer 3430, &amp; Walk In Fridge 3431. Provide Allowance</b>				
36	<b>for Conference Room Finishes</b>				
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<b>Value Engineering Pricing Backup</b>	<b>(\$228,500)</b>
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**CLUNE CONSTRUCTION COMPANY**  
**HILLSHIRE BRANDS RELOCATION**  
**GUARANTEED MAXIMUM PRICE CLARIFICATIONS**  
**AUGUST 17, 2012**

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**GENERAL CLARIFICATIONS:**

1. Guaranteed Maximum Price is based on Clune Construction Company's Schedule A - List of Drawings dated August 16, 2012 as well as:
  - Perkins & Will Project Manual dated July 12, 2012
2. Guaranteed Maximum Price is based on a schedule of twenty nine (29) weeks of construction. Milestone dates are as follows:
  - Pre-Construction (Bidding/GMP/Startup) – July 27, 2012 thru August 17, 2012
  - Construction – August 13, 2012 thru December 14, 2012
  - Project Closeout – December 17, 2012 thru February 15, 2012
3. Guaranteed Maximum Price utilizes union trade labor for all work.
4. Guaranteed Maximum Price includes Builder's Risk Insurance.
5. Guaranteed Maximum Price excludes a payment & performance bond.
6. Guaranteed Maximum Price excludes the relocation of existing electrical conduits, mechanical equipment, ductwork, sprinkler pipe, plumbing pipe, existing life safety loop, etc. not specifically indicated on the fire protection, plumbing, mechanical, and electrical drawings. Any relocation costs shall be deducted from these the relocation of existing utilities, MEP piping, cable, wire or ductwork unless specifically indicated in the bid documents. Any relocation costs shall be deducted from the contingency.
7. Guaranteed Maximum Price includes MBE/WBE participation and TIF reporting as required per the contract.
8. Guaranteed Maximum Price excludes all asbestos or hazardous material testing, sampling, and removal.
9. Guaranteed Maximum Price includes all permit costs including building permit and certificate of occupancy.
10. Guaranteed Maximum Price excludes costs related to site utilities.
11. Guaranteed Maximum Price assumes the landlord will provide sufficient space for trash dumpsters at the loading dock in order to maintain the flow of trash removal

**CLUNE**  
Construction Company

as deemed necessary by Clune Construction. It also assumes reasonable access to the site for all construction staging. This has been discussed with Sterling Bay and Leopardo.

12. Guaranteed Maximum Price includes final cleaning prior to owner move in.
13. Guaranteed Maximum Price excludes costs and or charges for dock security, security guard service, temporary power and ventilation during construction, Leopardo's elevator operator, etc. We assume these building charges will be billed directly to the client if applicable to the terms and conditions of the lease.
14. Guaranteed Maximum Price includes providing MBE & WBE participation equaling the fixed sum values of \$4,666,311 for MBE and \$777,719 for WBE.
15. Guaranteed Maximum Price includes premium time.
16. Guaranteed Maximum Price includes 50% City of Chicago Residency requirements as part of the RDA. Subcontractor penalties and/or fines for not being able to achieve this requirement are included.
17. Guaranteed Maximum Price assumes the following are by others:
  - A. Placement of owner furnished desks, open office furniture, filing cabinets, and any free standing furniture items.
  - B. Conference Room tables/ furniture.
  - C. Existing core wall and/or column alignment.
  - D. Signage, graphics, and logo work.
  - E. Temporary power or utility costs during construction.
  - F. Repairs to existing systems (MEP).
  - G. Use of temporary facilities

**02050 - Demolition**

11. Guaranteed Maximum Price excludes slab openings for Test Kitchens 3600 & 3700 HVAC shafts (eliminated as part of the value engineering process).
12. Guaranteed Maximum Price excludes sawcutting capitals for HD file support connections on the 4<sup>th</sup> floor (eliminate as part of the value engineering process).
13. Guaranteed Maximum Price excludes sawcutting of the existing roof slab for the skylight (eliminated as part of the value engineering process).
14. Guaranteed Maximum Price includes additional demolition as required at concrete columns and piers for architectural and MEP installations.



**03000 - Concrete**

15. Guaranteed Maximum Price excludes costs to level the existing concrete slab to a specific design criteria.
16. Guaranteed Maximum Price excludes concrete curbs for the skylight (eliminated as part of the value engineering process).
17. Guaranteed Maximum Price includes concrete pads at the walk in coolers and refrigerators on the 4<sup>th</sup> floor.
18. Guaranteed Maximum Price includes patching of the concrete slab at spalled ceiling areas.

**04200 - Masonry**

19. Guaranteed Maximum Price includes miscellaneous tuckpointing and repairs to the existing brick mortar in the tower conference room floors.

**05500 - Structural Steel / Miscellaneous Iron**

20. Guaranteed Maximum Price includes x-raying the existing concrete structure for steel coring / connections to the existing slab.
21. Guaranteed Maximum Price includes GL-03 glass lites at the safety railing and screen wall on the 3<sup>rd</sup> and 4<sup>th</sup> floor.
22. Guaranteed Maximum Price includes refinishing and installing the (5) salvaged bronze doors on floors 2-4.
23. Guaranteed Maximum Price includes (2) manual rolling doors at the 1<sup>st</sup> floor.
24. Guaranteed Maximum Price includes metal fencing, posts, and gates at the basement.
25. Guaranteed Maximum Price includes (2 ea.) rolling door steel and overhead supports.
26. Guaranteed Maximum Price includes testing and inspection of all structural steel connections.
27. Guaranteed Maximum Price includes all exposed tube steel, metal plates, and perforated metal paneling as bare steel. All exposed welds will be ground to a smooth finish (weld will be visible).
28. Guaranteed Maximum Price includes the tube steel support structure for the screen wall in (9) equal sections – not (7) as shown in the Addendum #001.

29. Guaranteed Maximum Price includes all vertical and horizontal tube steel supports at the hexagon offices, corner conference rooms, and medium conference rooms.
30. Guaranteed Maximum Price includes the perforated metal panels and unistrut at the corner conference rooms.
31. Guaranteed Maximum Price includes (1) hexagon office mockup of the vertical and horizontal tube steel (exposed and in wall).
32. Guaranteed Maximum Price excludes structural steel supports for the HD filing system on the 4<sup>th</sup> floor (eliminated as part of the value engineering process).
33. Guaranteed Maximum Price excludes the structural steel supports for the slab openings required for Test Kitchens 3600 & 3700 (eliminated as part of the value engineering process).
34. Guaranteed Maximum Price excludes the structural steel supports for the roof skylight (eliminated as part of the value engineering process).
35. Guaranteed Maximum Price excludes the caged ladder at the 8<sup>th</sup> floor tower conference room.

**06100 – Rough Carpentry**

36. Guaranteed Maximum Price includes OSHA protection and barricades around the slab openings for the stair.
37. Guaranteed Maximum Price includes installation of miscellaneous accessories at the pantries.
38. Guaranteed Maximum Price includes plywood platforms at the HD filing systems on the 2<sup>nd</sup> and 3<sup>rd</sup> floors.
39. Guaranteed Maximum Price includes labor and material to protect the carpet, millwork, glass, and base building restrooms during construction.
40. Guaranteed Maximum Price includes shaft opening protection on the 4<sup>th</sup> floor and roof for the make-up air unit shafts to the kitchens.

**06400 - Millwork**

41. Guaranteed Maximum Price includes an allowance of \$10,000 for the 8<sup>th</sup> floor conference room sculpture.
42. Guaranteed Maximum Price includes fabric felt screens and hanging systems at the open meeting rooms.

43. Guaranteed Maximum Price includes MDF templating and layout of the hexagon private offices.
44. Guaranteed Maximum Price includes powder coated unistrut support for the hexagon office trellis ceilings.
45. Guaranteed Maximum Price includes metal corner guards with exposed fasteners at WD-01 and WD-03 wall cladding. Corner guards will be a painted metal finish.
46. Guaranteed Maximum Price excludes MDF wall cladding at WD-01 and WD-03 walls. Cladding will be glued and screwed/nailed to the drywall.
47. Guaranteed Maximum Price includes MDF ceiling and soffit cladding at WD-01 and WD-03 walls.
48. Guaranteed Maximum Price includes MW-01 and MW-02 metal wall paneling as plate steel with a lacquer finish.
49. Guaranteed Maximum Price assumes there is a sufficient quantity of salvaged wood lumber in the basement to cut, finish, and install for WD-03. In the event there is a shortage, changes to the scope and/or elimination of the material locations will be required.
50. Guaranteed Maximum Price includes value engineering pricing items as follows:
  - a. Reduce the location and square footage of WD-01 & MW-01 at the elevator lobbies on the 2<sup>nd</sup> through 4<sup>th</sup> floors.
  - b. Eliminate the millwork credenzas at the small conference rooms.
  - c. Eliminate the millwork file surrounds and setting of the filing cabinets.
  - d. Change Copy Room Lower Cabinets to Vertical Supports and Adjustable Shelves
  - e. Eliminate all backpainted magnetic glass locations throughout the space.
  - f. Eliminate paint grade wood base at perimeter open office areas on floors 1 through 4.
  - g. Revise the hexagon office wood beam / trellis material to Non FSC stained oak veneered material vs. reclaimed wood FSC rated material

**07250 – Fireproofing / Roofing**

51. Guaranteed Maximum Price includes fireproofing of the new structural steel installed as part of the tenant buildout. Patching of the existing steel fireproofing will be completed if disturbed as part of the tenant buildout.
52. Guaranteed Maximum Price includes patching of the roofing for new MEP penetrations. The base building roofing contractor will be used to maintain existing roof warranties.



**08700 – Frames / Doors / Hardware**

53. Guaranteed Maximum Price includes aluminum doors and frames manufactured by Wilson Partitions in an Arcadia # 85 black finish.
54. Guaranteed Maximum Price includes locksets, latchsets, handles, and cylinders manufactured by Best.
55. Guaranteed Maximum Price includes (1) hexagon office mockup of the aluminum framing, doors, pulls, and sliding door hardware.
56. Guaranteed Maximum Price includes a custom glazing vinyl strip if the glass thickness is increased at openings larger than 8'6" high.
57. Guaranteed Maximum Price includes coordination and keying of all locksets. A key storage cabinet will be provided.

**08800 – Glass & Glazing**

58. Guaranteed Maximum Price includes value engineering items as follows:
  - a. Change all GL-03 glass to 3/8" clear tempered.
  - b. Eliminate all backpainted magnetic glass locations throughout the space.
59. Guaranteed Maximum Price includes increasing GL-03 lites to 1/2" thick for lites over 102".
60. Guaranteed Maximum Price includes refurbishing, cleaning, and reinstalling the salvaged sashes lites at the corner conference rooms.
61. Guaranteed Maximum Price includes (1) hexagon office mockup GL-03 frame and door lites.
62. Guaranteed Maximum Price includes (1) full sash mockup @ one elevation of the corner conference rooms.
63. Guaranteed Maximum Price includes breakmetal framing going into aluminum framing at the 8<sup>th</sup> floor tower conference room.
64. Guaranteed Maximum Price includes removing (1) window per floor for ventilation and hoisting.
65. Guaranteed Maximum Price includes replacing the existing sash glass in the lower half of the salvaged lite if safety glass is required per code.

**09250 – Drywall / Carpentry**

66. Guaranteed Maximum Price includes in wall strapping for furniture overheads at the hexagon offices.
67. Guaranteed Maximum Price includes all partitions framed in 3-5/8" 20 gauge metal studs.
68. Guaranteed Maximum Price includes installation of all door frames, wood doors, and hardware.
69. Guaranteed Maximum Price includes unistrut supports at all interior medium conference rooms.
70. Guaranteed Maximum Price includes swapping out temporary construction lockset cylinders with permanent cylinders after keying.
71. Guaranteed Maximum Price includes all pitcon reveal and beads.
72. Guaranteed Maximum Price includes patching existing base building walls for installation of new electrical and data outlets within the wall.

**09300 – Ceramic / Stone**

73. Guaranteed Maximum Price includes stone and solid surface countertops.
74. Guaranteed Maximum Price includes 5% attic stock of all ceramic and quarry tile.
75. Guaranteed Maximum Price includes floor prep for ceramic tile to carpet and exposed concrete floors. Included in the prep is pitching to floor drains within the kitchens.
76. Guaranteed Maximum Price includes an antifracture and waterproof membrane at all quarry floor tile.
77. Guaranteed Maximum Price excludes the quarry tile floor and wall base for Test Kitchens 3600 & 3700 (eliminated as part of the value engineering process).

**09500 – Acoustic**

78. Guaranteed Maximum Price includes CLG-04 acoustical tile, grid, and edge trim in manufacturer's standard color. (Revised as part of the value engineering process).
79. Guaranteed Maximum Price includes metal mesh ceiling tile and grid at the 2<sup>nd</sup> through 4<sup>th</sup> floor elevator lobbies.
80. Guaranteed Maximum Price includes 5% attic stock for acoustic ceiling tile and grid (all types).

81. Guaranteed Maximum Price includes ceiling tile and grid patching due to trade damage during construction.

**09680 – Flooring**

82. Guaranteed Maximum Price includes an allowance of \$70,500 for floor prep.
83. Guaranteed Maximum Price includes all warranties for carpet types as indicated in the project manual.
84. Guaranteed Maximum Price includes 5% attic stock for all carpet types (excludes the areas rugs).
85. Guaranteed Maximum Price includes moisture and humidity testing of the existing concrete slab prior to carpet and resilient floor installation.
86. Guaranteed Maximum Price includes rubber base at the perimeter open office areas on floors 1 through 4 in lieu of wood base.
87. Guaranteed Maximum Price excludes expediting / premium's to quick ship the area rugs. The areas rugs have an 18-24 week lead time from approval and will not be available for owner move in. Temporary carpet will be provided at the rug areas until they arrive.

**09900 – Painting**

88. Guaranteed Maximum Price includes priming and painting the exposed concrete deck and columns prior to the start of tenant buildout including supervision.
89. Guaranteed Maximum Price includes a brush and roll finish on the exposed steel components for the project. A mockup will be completed for review and approval.
90. Guaranteed Maximum Price includes a 2 coat floor sealer at all exposed concrete floor locations. A mockup will be provided for review and approval.
91. Guaranteed Maximum Price includes touchup painting of walls, ceilings, and columns due to trade damage during construction.
92. Guaranteed Maximum Price includes painting exposed unistrut at the corner and medium conference rooms.
93. Guaranteed Maximum Price includes a level 5 finish at all writable wall surfaces.
94. Guaranteed Maximum Price includes value engineering pricing items as follows:
- a. Additional painting required at the removed millwork credenzas at the small conference rooms.
  - b. Provide IDEA paint in lieu of backpainted glass conference rooms.

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- c. Eliminate painting the wood base at perimeter open office areas on floors 1 through 4.
- 95. Guaranteed Maximum Price excludes painting exposed MEP's within the opened and closed ceiling cavity.
- 96. Guaranteed Maximum Price excludes painting the base building stairwell walls and railings.
- 97. Guaranteed Maximum Price excludes painting the base building passenger elevator doors and frames on all floors.

**10600 – Operable Partitions**

- 98. Guaranteed Maximum Price includes Skyfold Partitions at Conference Room 1406 & 2438.
- 99. Guaranteed Maximum Price includes Skyfold Partitions with a writable metal surface.

**11400 – Food Service Equipment**

- 100. Guaranteed Maximum Price excludes food service equipment at Walk in Freezer 3430, Walk in Refrigerator 3431, Test Kitchen 3600, and Test Kitchen 3700 (eliminated during the value engineering process).
- 101. Guaranteed Maximum Price includes an allowance of \$50,000 for revisions to the 4<sup>th</sup> floor Test Kitchens coming in the Issue for Construction drawing revisions.

**12500 – Window Treatments**

- 102. Guaranteed Maximum Price includes value engineering pricing items as follows:
  - a. Providing 1" horizontal mini-blinds in lieu of roller shades for DX-03 and DX-04 at floors 1 through 4. Base Bid specified manual roller shades at the tower floors 5 through 8
  - b. Retain DX-01 & DX-02 have a fabric allowance of \$29/LY.
- 103. Guaranteed Maximum Price includes curved drapery track at the East elevation conference rooms on floors 1 through 4.
- 104. Guaranteed Maximum Price includes motorized roller shades and drapery at the 8<sup>th</sup> floor tower conference room.
- 105. Guaranteed Maximum Price includes attic stock per the project manual.

106. Guaranteed Maximum Price includes interface of motorized shades and drapery with the lighting control system.

**14200 – Elevators**

107. Guaranteed Maximum Price includes an allowance of \$40,000 to relocate the call buttons and lanterns flush to the face of the new wood and steel paneling in the elevator lobbies on floors 2 through 4.

**15300 – Fire Protection**

108. Guaranteed Maximum Price includes relocation of existing piping to accommodate lighting and ductwork conflicts.
109. Guaranteed Maximum Price includes relocation of existing branch piping to accommodate the ceiling clouds on floors 1 through 4.
110. Guaranteed Maximum Price includes additional sprinkler coverage above the floating ceilings at the medium conference rooms.

**15400 – Plumbing**

111. Guaranteed Maximum Price excludes waste, supply, and vent piping associated with Test Kitchen 3600 and Test Kitchen 3700 (eliminated during the value engineering process).
112. Guaranteed Maximum Price includes x-raying for coring of all waste, vent and supply piping.
113. Guaranteed Maximum Price excludes humidification piping for HVAC equipment.

**15500 – HVAC**

114. Guaranteed Maximum Price includes expedited shipment of VAV boxes.
115. Guaranteed Maximum Price excludes HVAC scope of work associated with Test Kitchen 3600 and Test Kitchen 3700 (eliminated during the value engineering process).
116. Guaranteed Maximum Price includes commissioning of HVAC equipment per the project manual and mechanical specifications.
117. Guaranteed Maximum Price includes crane hoisting of all mechanical equipment to the roof. Hoisting is included during regular working hours.
118. Guaranteed Maximum Price includes all chilled and hot water supply / return piping with brazed connections.

119. Guaranteed Maximum Price includes all supply and return low pressure rigid ductwork as paint grip.
120. Guaranteed Maximum Price includes wireless temperature control device with insulated backboxes. Final location of devices will be coordinated with furniture and architectural finishes.
121. Guaranteed Maximum Price includes provisions to make final connections to base building HVAC distribution system once completely installed and commissioned by the landlord.
122. Guaranteed Maximum Price includes ductwork and pipe testing per the mechanical specifications.
123. Guaranteed Maximum Price includes control wiring and interlocking the VAV boxes with the hot water control valves at the corner conference rooms. Control valves at the perimeter fin tubes are provided by the landlord.
124. Guaranteed Maximum Price includes fire damper allowances per the mechanical specifications.

**16000 – Electrical**

125. Guaranteed Maximum Price excludes table lamps and task lighting for furniture.
126. Guaranteed Maximum Price includes attic stock requirements for light fixture ballasts and lamps.
127. Guaranteed Maximum Price includes additional life safety equipment, emergency, and exit signs per the electrical specifications.
128. Guaranteed Maximum Price includes commissioning of lighting control system and light fixtures per the project manual and electrical specifications.
129. Guaranteed Maximum Price includes additional control wiring between the make-up air units and exhaust hood fire protection system.
130. Guaranteed Maximum Price includes full conduit systems for fire alarm and security systems.
131. Guaranteed Maximum Price includes a combined conduit system for exit and emergency lighting. This was clarified by ESD during the electrical scope reviews.
132. Guaranteed Maximum Price includes the lighting controls package manufactured Phillips / Dynalite.

133. Guaranteed Maximum Price includes relamping permanent light fixtures used as temporary light fixtures during construction at the end of the project.

**16700 - Communications**

134. Guaranteed Maximum Price includes category 6 cabling solution provided by ComScope.
135. Guaranteed Maximum Price includes cabinets and racks per the communications specification and approved manufacturers.
136. Guaranteed Maximum Price includes all terminations Hillshire Brands cabling in the base building NetPop.
137. Guaranteed Maximum Price includes all vertical fiber cabling as armored fiber.
138. Guaranteed Maximum Price includes wiring, backboxes, and installation of owner supplied wireless access points.
139. Guaranteed Maximum Price includes commissioning, testing, and training of the communications system per the communications specifications.

**16800 - Security**

140. Guaranteed Maximum Price includes an allowance of \$120,000 for the access control system.

**17200 - Final Clean**

141. Guaranteed Maximum Price includes final construction cleaning.

**98100 - Contingency**

142. Guaranteed Maximum Price includes \$500,000 as a construction contingency for unforeseen conditions.



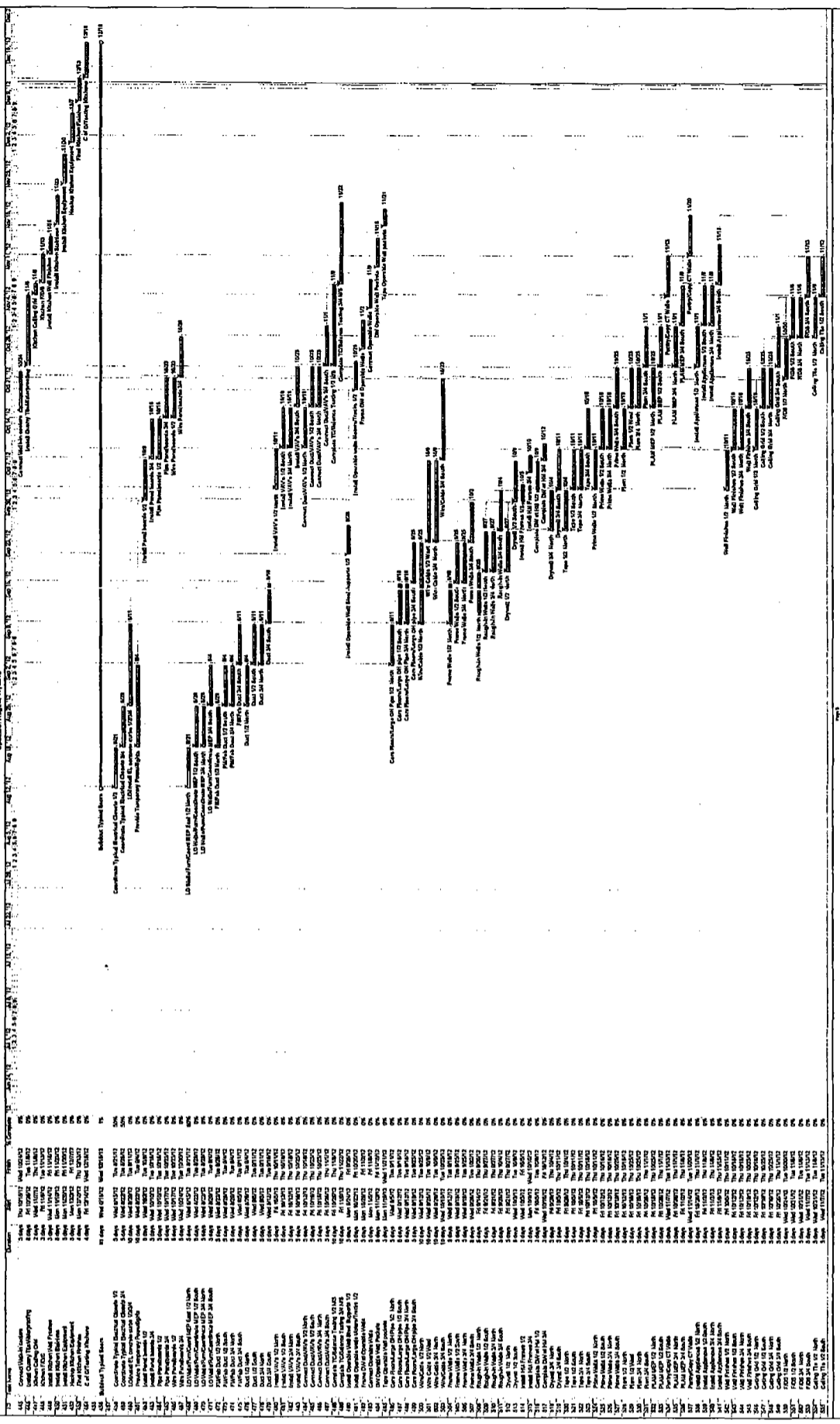








**Hipship Brands Relocation**  
 Construction Schedule  
 October 17, 2017





**CLUNE CONSTRUCTION COMPANY**

**130P001 - Hillshire Brands**

**Schedule A - List of Documents**

**August 16, 2012**

The following are the contract documents as prepared by the architect and engineer of record.

Number	Title	Discipline	Rev Date	Revision
A	Perkins & Will Architectural Specification Project Manual dated July 12, 2012	Architectural	7/12/12	0
A00-00	Cover Sheet	Architectural	7/11/12	2
A00-01	Arch Abbreviations, Symbols, & General Notes	Architectural	7/11/12	2
A00-05	Typical Mounting Heights	Architectural	7/27/12	3
A00-07	General Notes	Architectural	7/11/12	2
A00-08	General Notes	Architectural	7/11/12	2
A00-10	1st & 2nd Floor Life Safety / Code Compliance Sheet	Architectural	7/11/12	2
A00-11	3rd, 4th, 5th, 6th, 7th & 8th Floor - Life Safety Plans	Architectural	7/11/12	2
A00-40	Partition Types	Architectural	7/11/12	2
A00-42	Partition Details	Architectural	7/11/12	2
A00-50	Door Schedule, Hardware Schedule & Hardware Specifications	Architectural	7/27/12	3
A00-51	Door & Frame Types	Architectural	7/27/12	3
A00-52	Door Details	Architectural	7/11/12	2
A00-70	Finish Schedule	Architectural	7/27/12	3
A00-90	Equipment, Light Fixture and Accessory Schedule	Architectural	7/11/12	2
A02-04	4th Floor Demolition Plan	Architectural	7/11/12	2
A02-05	5th Floor Demolition Plan	Architectural	7/27/12	3
A04-00	Basement Floor Construction Plan	Architectural	7/11/12	2
A04-00A	Basement Floor Dimension Plan	Architectural	7/11/12	2
A04-01	1st Floor Construction Plan	Architectural	7/27/12	3
A04-01A	1st Floor Dimension Plan	Architectural	7/11/12	2
A04-02	2nd Floor Construction Plan	Architectural	7/27/12	3
A04-02A	2nd Floor Dimension Plan	Architectural	7/27/12	3
A04-03	3rd Floor Construction Plan	Architectural	7/27/12	3
A04-03A	3rd Floor Dimension Plan	Architectural	7/11/12	2
A04-04	4th Floor Construction Plan	Architectural	7/11/12	2
A04-04A	4th Floor Dimension Plan	Architectural	7/11/12	2
A04-05	5th Floor Construction Plan	Architectural	7/27/12	3

Number	Title	Discipline	Rev Date	Revision
A04-05A	5th Floor Dimension Plan	Architectural	7/11/12	2
A04-06	6th, 7th & 8th Floor Construction Plan	Architectural	7/27/12	3
A04-06A	6th, 7th & 8th Floor Dimension Plan	Architectural	7/11/12	2
A05-01	1st Floor Reflected Ceiling Plan	Architectural	7/27/12	3
A05-02	2nd Floor Reflected Ceiling Plan	Architectural	7/27/12	3
A05-03	3rd Floor Reflected Ceiling Plan	Architectural	7/27/12	3
A05-04	4th Floor Reflected Ceiling Plan	Architectural	7/27/12	3
A05-05	5th, 6th, 7th & 8th Floor Reflected Ceiling Plan	Architectural	7/11/12	2
A05-50	Reflected Ceiling Details	Architectural	7/27/12	3
A05-51	Reflected Ceiling Details	Architectural	7/27/12	3
A06-00	Basement Floor Power Communications Plan	Architectural	7/11/12	2
A06-01	1st Floor Power Communications Plan	Architectural	7/11/12	2
A06-02	2nd Floor Power Communications Plan	Architectural	7/11/12	2
A06-03	3rd Floor Power Communications Plan	Architectural	7/11/12	2
A06-04	4th Floor Power Communications Plan	Architectural	7/11/12	2
A06-05	5th, 6th, 7th & 8th Floor Power Communications Plan	Architectural	7/11/12	2
A07-01	1st Floor Finish Plan	Architectural	7/11/12	2
A07-01W	1st Floor Wall Finish Plan	Architectural	7/27/12	0
A07-02	2nd Floor Finish Plan	Architectural	7/11/12	2
A07-02W	2nd Floor Wall Finish Plan	Architectural	7/27/12	0
A07-03	3rd Floor Finish Plan	Architectural	7/11/12	2
A07-03W	3rd Floor Wall Finish Plan	Architectural	7/27/12	0
A07-04	4th Floor Finish Plan	Architectural	7/11/12	2
A07-04W	4th Floor Wall Finish Plan	Architectural	7/27/12	0
A07-05	5th, 6th, 7th & 8th Floor Finish Plan	Architectural	7/11/12	2
A07-05W	5th, 6th, 7th & 8th Floor Wall Finish Plan	Architectural	7/27/12	0
A07-50	Floor Transition Details	Architectural	7/11/12	2
A08-01	1st Floor Furniture Plan	Architectural	7/27/12	3
A08-02	2nd Floor Furniture Plan	Architectural	7/27/12	3
A08-03	3rd Floor Furniture Plan	Architectural	7/27/12	3
A08-04	4th Floor Furniture Plan	Architectural	7/27/12	3
A08-05	5th, 6th, 7th & 8th Floor Furniture Plan	Architectural	7/11/12	2
A10-01	Elevations - Conference Rooms	Architectural	7/27/12	3
A10-02	Elevations - Conference Rooms	Architectural	7/27/12	3
A10-03	Elevations - Conference Rooms	Architectural	7/27/12	3
A10-04	Elevations	Architectural	7/27/12	3

Number	Title	Discipline	Rev Date	Revision
A10-05	Elevations - Elevator Lobby	Architectural	7/27/12	3
A10-06	Elevations - Support Spaces	Architectural	7/27/12	3
A10-07	Elevations - Support Spaces	Architectural	7/27/12	3
A10-08	Elevations - Support Spaces	Architectural	7/27/12	3
A10-09	Elevations - Hallways	Architectural	7/27/12	3
A10-10	Elevations - Hallways	Architectural	7/27/12	3
A10-11	Elevations - Tower	Architectural	7/27/12	3
A10-12	Elevations - Tower	Architectural	7/27/12	3
A10-20	Enlarged Plans - Corner Conference Room	Architectural	7/27/12	3
A10-21	Enlarged Plans - Private Office	Architectural	7/27/12	3
A10-22	Enlarged Plans - Collaboration Spaces	Architectural	7/27/12	3
A10-23	Enlarged Plans - Support Space	Architectural	7/27/12	3
A10-24	Enlarged Plans - Kitchens	Architectural	7/11/12	2
A10-25	Enlarged Plans - Stair	Architectural	7/27/12	3
A10-26	Enlarged Plans - Stair	Architectural	7/27/12	3
A10-50	Interior Details	Architectural	7/11/12	2
A10-51	Interior Details	Architectural	7/27/12	3
A10-52	Interior Details	Architectural	7/27/12	3
A10-53	Interior Details	Architectural	7/27/12	3
A10-54	Exterior Details - Skylight	Architectural	7/27/12	3
A10-55	Interior Details - Stair	Architectural	7/27/12	3
A10-56	Interior Details - Pavillions	Architectural	7/27/12	3
A10-57	Interior Details - Collaboration	Architectural	7/27/12	3
A10-58	Interior Details - Private Offices	Architectural	7/27/12	3
A10-59	Interior Details - Elevator Lobby	Architectural	7/27/12	3
A10-60	Details - Tower	Architectural	7/27/12	0
Cover Sheet	Cover Sheet	Architectural	7/11/12	2
K3.0	Food Service Equipment Schedule	Architectural	7/11/12	2
K3.1	Food Service Equipment Schedule Plan	Architectural	7/27/12	3
K3.10	Food Service Equipment Details	Architectural	7/11/12	2
K3.11	Food Service Equipment Details	Architectural	7/11/12	2
K3.12	Food Service Equipment UDS Shop Drawings	Architectural	7/11/12	2
K3.13	Food Service Equipment Walk-In Shop Drawings	Architectural	7/11/12	2
K3.14	Food Service Equipment Walk-In Shop Drawings	Architectural	7/11/12	2
K3.15	Food Service Equipment Exhaust-Hood Shop Drawings	Architectural	7/11/12	2
K3.16	Food Service Equipment Exhaust-Hood Shop Drawings	Architectural	7/11/12	2
K3.17	Food Service Equipment Exhaust-Hood Shop Drawings	Architectural	7/11/12	2



Number	Title	Discipline	Rev Date	Revision
K3.18	Food Service Equipment Exhaust-Hood Shop Drawings	Architectural	7/11/12	2
K3.19	Food Service Equipment Exhaust-Hood Shop Drawings	Architectural	7/11/12	2
K3.2	Food Service Equipment Utility Notes	Architectural	7/11/12	2
K3.20	Food Service Equipment Exhaust-Hood Shop Drawings	Architectural	7/11/12	2
K3.3	Electrical Rough-In Plan	Architectural	7/11/12	2
K3.4	Plumbing Rough-In Plan	Architectural	7/27/12	3
K3.5	Special Conditions Plan	Architectural	7/11/12	2
K3.6	Food Service Equipment Elevations	Architectural	7/11/12	2
K3.7	Food Service Equipment Elevations	Architectural	7/11/12	2
K3.8	Food Service Equipment Sections	Architectural	7/11/12	2
K3.9	Food Service Equipment Details	Architectural	7/11/12	2
K4.0	Food Service Equipment Plan	Architectural	7/11/12	2
K4.1	Food Service Equipment Schedule Plan	Architectural	7/27/12	3
K4.10	Food Service Equipment Details	Architectural	7/11/12	2
K4.11	Food Service Equipment Details	Architectural	7/11/12	2
K4.12	Food Service Equipment UDS Shop Drawings	Architectural	7/11/12	2
K4.13	Food Service Equipment Walk-In Shop Drawings	Architectural	7/11/12	2
K4.14	Food Service Equipment Walk-In Shop Drawings	Architectural	7/11/12	2
K4.15	Food Service Equipment Exhaust-Hood Shop Drawings	Architectural	7/11/12	2
K4.16	Food Service Equipment Exhaust-Hood Shop Drawings	Architectural	7/11/12	2
K4.17	Food Service Equipment Exhaust-Hood Shop Drawings	Architectural	7/11/12	2
K4.2	Food Service Equipment Utility Notes	Architectural	7/11/12	2
K4.3	Electrical Rough-In Plan	Architectural	7/27/12	3
K4.4	Plumbing Rough-In Plan	Architectural	7/27/12	3
K4.5	Special Conditions Plan	Architectural	7/11/12	2
K4.6	Food Service Equipment Elevations	Architectural	7/11/12	2
K4.7	Food Service Equipment Elevations	Architectural	7/11/12	2
K4.8	Food Service Equipment Sections	Architectural	7/11/12	2
K4.9	Food Service Equipment Details	Architectural	7/11/12	2
K5.0	Food Service Equipment Plan	Architectural	7/11/12	2

Number	Title	Discipline	Rev Date	Revision
K5.1	Food Service Equipment Schedule Plan	Architectural	7/11/12	2
K5.2	Food Service Equipment Refrigeration Schedule	Architectural	7/11/12	2
K5.3	Electrical Rough-In Plan	Architectural	7/11/12	2
K5.4	Special Conditions Plan	Architectural	7/11/12	2
E0.01	Electrical Specifications	Electrical	7/11/12	2
E0.02	Electrical Specifications, Symbols List & General Notes	Electrical	7/27/12	3
E0.10	Electrical Riser Diagram	Electrical	7/11/12	2
E0.11	Emergency Riser Diagram	Electrical	7/11/12	2
E0.20	Electrical Lighting & Kitchen Equipment Schedules	Electrical	7/11/12	2
E0.30	Electrical Panel Schedules	Electrical	7/11/12	2
E0.31	Electrical Panel Schedules	Electrical	7/11/12	2
E0.32	Electrical Panel Schedules	Electrical	7/11/12	2
E0.33	Electrical Panel Schedules	Electrical	7/11/12	2
E0.34	Electrical Panel Schedules	Electrical	7/11/12	2
E0.40	IDF Room Power Plans	Electrical	7/11/12	2
E3.00	Basement Electrical Power Plan	Electrical	7/11/12	2
E3.01	1st Floor Electrical Power Plan	Electrical	7/11/12	2
E3.02	2nd Floor Electrical Power Plan	Electrical	7/11/12	2
E3.03	3rd Floor Electrical Power Plan	Electrical	7/27/12	3
E3.04	4th Floor Electrical Power Plan	Electrical	7/27/12	3
E3.05	5th, 6th, 7th & 8th Floor Electrical Power Plan	Electrical	7/27/12	3
E4.01	1st Floor Electrical Lighting Plan	Electrical	7/27/12	3
E4.02	2nd Floor Electrical Lighting Plan	Electrical	7/27/12	3
E4.03	3rd Floor Electrical Lighting Plan	Electrical	7/27/12	3
E4.04	4th Floor Electrical Lighting Plan	Electrical	7/27/12	3
E4.05	5th, 6th, 7th & 8th Floor Electrical Lighting Plan	Electrical	7/27/12	3
E5.01	1st Floor Emergency Lighting Plan	Electrical	7/11/12	2
E5.02	2nd Floor Emergency Lighting Plan	Electrical	7/11/12	2
E5.03	3rd Floor Emergency Lighting Plan	Electrical	7/11/12	2
E5.04	4th Floor Emergency Lighting Plan	Electrical	7/11/12	2
E5.05	5th, 6th, 7th & 8th Floor Emergency Lighting Plan	Electrical	7/11/12	2
E7.01	1st Floor HVAC Power Plan	Electrical	7/27/12	3
E7.02	2nd Floor HVAC Power Plan	Electrical	7/27/12	3
E7.03	3rd Floor HVAC Power Plan	Electrical	7/27/12	3
E7.04	4th Floor HVAC Power Plan	Electrical	7/27/12	3
E7.05	5th Floor HVAC Power Plan	Electrical	7/27/12	3

Number	Title	Discipline	Rev Date	Revision
E7.06	6th, 7th & 8th Floor HVAC Power Plan	Electrical	7/27/12	3
LT-301	First Floor Reflected Ceiling Plan	Electrical	7/27/12	3
LT-302	Second Floor Reflected Ceiling Plan	Electrical	7/27/12	3
LT-303	Third Floor Reflected Ceiling Plan	Electrical	7/27/12	3
LT-304	Fourth Floor Reflected Ceiling Plan	Electrical	7/27/12	3
LT-305	Fifth, Sixth, Seventh and Eighth Floor Reflected Ceiling Plan	Electrical	7/27/12	3
LT-311	First Floor Millwork Lighting Plan	Electrical	7/27/12	3
LT-312	Second Floor Millwork Lighting Plan	Electrical	7/27/12	3
LT-313	Third Floor Millwork Lighting Plan	Electrical	7/27/12	3
LT-314	Fourth Floor Millwork Lighting Plan	Electrical	7/27/12	3
LT-315	Fifth, Sixth, Seventh and Eighth Floor Millwork Lighting Plan	Electrical	7/27/12	3
LT-400	Control Single Line	Electrical	7/27/12	3
LT-500	Luminaire & Zoning Schedule	Electrical	7/27/12	3
LT-501	Control Devices Schedule	Electrical	7/27/12	3
LT-502	Entry Panel Schedule	Electrical	7/27/12	3
FA3.01	1st Floor Fire Alarm Plan	Fire Protection	7/27/12	3
FA3.02	2nd Floor Fire Alarm Plan	Fire Protection	7/27/12	3
FA3.03	3rd Floor Fire Alarm Plan	Fire Protection	7/27/12	3
FA3.04	4th Floor Fire Alarm Plan	Fire Protection	7/27/12	3
FA3.05	5th, 6th, 7th & 8th Floor Fire Alarm Plan	Fire Protection	7/27/12	3
FP0.01	Fire Protection Specifications	Fire Protection	7/11/12	2
FP0.02	Fire Protection Details	Fire Protection	7/11/12	2
FP-101	First Floor Fire Protection Plan	Fire Protection	7/11/12	2
FP-102	Second Floor Fire Protection Plan	Fire Protection	7/11/12	2
FP-103	Third Floor Fire Protection Plan	Fire Protection	7/11/12	2
FP-104	Fourth Floor Fire Protection Plan	Fire Protection	7/11/12	2
FP-105	Fifth Floor/Roof Fire Protection Plan	Fire Protection	7/11/12	2
FP-106	6th, 7th & 8th Floor Fire Protection Plan	Fire Protection	7/11/12	2
FP3.01	First Floor Fire Protection Plan	Fire Protection	7/27/12	3
FP3.02	Second Floor Fire Protection Plan	Fire Protection	7/27/12	3
FP3.03	Third Floor Fire Protection Plan	Fire Protection	7/27/12	3
FP3.04	Fourth Floor Fire Protection Plan	Fire Protection	7/27/12	3
FP3.05	Fifth Floor Fire Protection Plan	Fire Protection	7/27/12	3

Number	Title	Discipline	Rev Date	Revision
FP3.06	6th, 7th & 8th Floor Fire Protection Plan	Fire Protection	7/27/12	3
Food Service	Food Service Venues Food Service Equipment Specifications dated July 11, 2012	Food Service Equipment	7/12/12	0
M0.11	Mechanical Specifications	Mechanical	7/27/12	3
M0.12	Mechanical Specifications	Mechanical	7/27/12	3
M0.13	Commissioning Specifications	Mechanical	7/11/12	2
M0.14	Commissioning Specifications	Mechanical	7/11/12	2
M0.15	Commissioning Specifications	Mechanical	7/11/12	2
M0.21	Mechanical Schedules	Mechanical	7/27/12	3
M0.22	Mechanical Schedules	Mechanical	7/27/12	3
M0.23	Mechanical Schedules	Mechanical	7/27/12	3
M0.24	Mechanical Schedules	Mechanical	7/27/12	3
M0.25	Mechanical Schedules	Mechanical	7/27/12	3
M0.31	Mechanical Details	Mechanical	7/11/12	2
M0.32	Mechanical Details	Mechanical	7/27/12	3
M3.01	1st Floor Mechanical Piping Plan	Mechanical	7/27/12	3
M3.02	2nd Floor Mechanical Piping Plan	Mechanical	7/27/12	3
M3.03	3rd Floor Mechanical Piping Plan	Mechanical	7/27/12	3
M3.04	4th Floor Mechanical Piping Plan	Mechanical	7/27/12	3
M3.05	5th, 6th, 7th and 8th Floor Mechanical Piping Plan	Mechanical	7/27/12	3
M4.00	Basement Floor Mechanical Plan	Mechanical	7/11/12	2
M4.01	1st Floor Mechanical Plan	Mechanical	7/27/12	3
M4.02	2nd Floor Mechanical Plan	Mechanical	7/27/12	3
M4.03	3rd Floor Mechanical Plan	Mechanical	7/27/12	3
M4.04	4th Floor Mechanical Plan	Mechanical	7/27/12	3
M4.04K	Enlarged Plans - Kitchen Areas	Mechanical	7/27/12	3
M4.05	5th, 6th, 7th and 8th Floor Mechanical Plan	Mechanical	7/27/12	3
M4.05R	5th Floor Roof Mechanical Plan	Mechanical	7/27/12	3
P0.01	Plumbing Specifications	Plumbing	7/11/12	2
P0.02	Plumbing Schedules, Symbols and Details	Plumbing	7/27/12	3
P0.03	Plumbing Diagrams	Plumbing	7/11/12	2
P0.04	Plumbing Diagrams	Plumbing	7/27/12	3
P3.00	Basement Floor Plumbing Plan	Plumbing	7/11/12	2
P3.01	1st Floor Plumbing Plan	Plumbing	7/11/12	2
P3.02	2nd Floor Plumbing Plan	Plumbing	7/11/12	2
P3.03	3rd Floor Plumbing Plan	Plumbing	7/27/12	3
P3.04	4th Floor Plumbing Plan	Plumbing	7/27/12	3

Number	Title	Discipline	Rev Date	Revision
SC0.01	Security Specifications	Security	7/11/12	2
SC0.10	Security Riser Diagram	Security	7/11/12	2
SC0.11	Security Details	Security	7/11/12	2
SC3.01	1st Floor Security Plan	Security	7/11/12	2
SC3.02	2nd Floor Security Plan	Security	7/11/12	2
SC3.03	3rd Floor Security Plan	Security	7/11/12	2
SC3.04	4th Floor Security Plan	Security	7/11/12	2
SC3.05	5th, 6th, 7th & 8th Floor Security Plan	Security	7/11/12	2
S000	General Notes & Key Notes	Structural	7/11/12	2
S100	Foundation Plan	Structural	7/11/12	2
S101	1st Floor Framing Plan	Structural	7/11/12	2
S102	2nd Floor Framing Plan	Structural	7/11/12	2
S103	3rd Floor Framing Plan	Structural	7/11/12	2
S104	4th Floor Framing Plan	Structural	7/11/12	2
S105	5th Floor Framing Plan	Structural	7/27/12	3
S106	Floor Framing plans	Structural	7/27/12	3
S200	Sections & Details	Structural	7/27/12	3
T0.01	Structured Cabling Specifications	Tele / Data	7/27/12	3
T0.02	Structured Cabling Specifications, Symbols & Products List	Tele / Data	7/11/12	2
T0.10	Structured Cabling Riser Diagrams	Tele / Data	7/11/12	2
T0.20	Structured Cabling Details	Tele / Data	7/11/12	2
T0.21	Structured Cabling Grounding Details	Tele / Data	7/11/12	2
T3.00	Basement Structured Cabling Plan	Tele / Data	7/11/12	2
T3.01	1st Floor Structured Cabling Plan	Tele / Data	7/11/12	2
T3.01.1	1st Floor Enlarged Plans	Tele / Data	7/11/12	2
T3.02	2nd Floor Structured Cabling Plan	Tele / Data	7/11/12	2
T3.02.1	2nd Floor Enlarged Plans	Tele / Data	7/11/12	2
T3.03	3rd Floor Structured Cabling Plan	Tele / Data	7/11/12	2
T3.03.1	3rd Floor Enlarged Plans	Tele / Data	7/11/12	2
T3.04	4th Floor Structured Cabling Plan	Tele / Data	7/11/12	2
T3.04.1	4th Floor Enlarged Plans	Tele / Data	7/11/12	2
T3.05	5th, 6th, 7th & 8th Floor Structured Cabling Plan	Tele / Data	7/27/12	3

**EXHIBIT G**

[INTENTIONALLY OMITTED]

**EXHIBIT H-1**

**PROJECT BUDGET**

<b>Hard Costs</b>	<b>Amount</b>
Tenant Construction	\$20,322,963
Hard Cost Contingency	\$960,000
<b>Total Hard Costs</b>	<b>\$21,282,963</b>
<b>Soft Costs/Fees</b>	
Architect/Engineering	\$840,000
Consultant Fees	\$160,000
Legal and Accounting	\$120,000
Insurance	\$12,000
Permits	\$208,000
Project Management	\$200,000
Miscellaneous Soft Costs	\$40,000
Soft Cost Contingency	\$80,000
<b>Total Soft Costs</b>	<b>\$1,660,000</b>
Furniture and Fixtures	\$5,600,000
Equipment	\$1,600,000
<b>Total FFE</b>	<b>\$7,200,000</b>
<b>Total</b>	<b>\$30,142,963</b>

**EXHIBIT H-2**

MBE/WBE Project Budget

Hard Costs of Tenant Improvements	\$18,402,963
Soft Costs/Fees	<u>\$ 1,040,000</u>
MBE/WBE Project Budget	\$19,442,963
<b>MBE Total at 24%</b>	<b>\$ 4,666,311</b>
<b>WBE Total at 4%</b>	<b>\$ 777,719</b>



**EXHIBIT I**

**PRIOR EXPENDITURES**

<u>Description</u>	<u>City Project Budget</u>	<u>Prior Expenditures (through 12/31/2012)</u>
Hard Construction Costs	\$21,282,963	\$19,232,414
Soft Costs and FF&E <sup>1</sup>	\$8,860,000	\$3,707,870
<b>Total</b>	<b>\$30,142,963</b>	<b>\$22,940,284</b>

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<sup>1</sup> Amounts for soft costs and FF&E set forth hereunder have been submitted to the City but remain subject to review and approval by HED.

**EXHIBIT J**

OPINION OF DEVELOPER'S COUNSEL

[To be retyped on the Developer's Counsel's letterhead]

City of Chicago  
121 North LaSalle Street  
Chicago, IL 60602

ATTENTION: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to The Hillshire Brands Company, an \_\_\_\_\_ entity (the "**Developer**"), in connection with the purchase of certain land and the construction of certain facilities thereon located in the Canal/Congress Redevelopment Project Area (the "**Project**"). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "**Documents**":

(a) \_\_\_\_\_ Redevelopment Agreement (the "**Agreement**") of even date herewith, executed by the Developer and the City of Chicago (the "**City**");

[(b) the Escrow Agreement of even date herewith executed by the Developer and the City;]

(c) [insert other documents including but not limited to documents related to purchase and financing of the Property and all lender financing related to the Project]; and

(d) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, we have examined

(a) the original or certified, conformed or photostatic copies of the Developer's (i) Articles of Incorporation, as amended to date, (ii) qualifications to do business and certificates of good standing in all states in which the Developer is qualified to do business, (iii) By-Laws, as amended to date, and (iv) records of all corporate proceedings relating to the Project [revise if the Developer is not a corporation]; and

(b) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

In all such examinations, we have assumed the genuineness of all signatures (other than those of the Developer), the authenticity of documents submitted to us as originals and conformity to the originals of all documents submitted to us as certified, conformed or photostatic copies.

Based on the foregoing, it is our opinion that:

1. The Developer is a corporation duly organized, validly existing and in good standing under the laws of its state of [incorporation] [organization], has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business as a foreign [corporation] [entity] under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

2. The Developer has full right, power and authority to execute and deliver the Documents to which it is a party and to perform its obligations thereunder. Such execution, delivery and performance will not conflict with, or result in a breach of, the Developer's [Articles of Incorporation or By-Laws] [describe any formation documents if the Developer is not a corporation] or result in a breach or other violation of any of the terms, conditions or provisions of any law or regulation, order, writ, injunction or decree of any court, government or regulatory authority, or, to the best of our knowledge after diligent inquiry, any of the terms, conditions or provisions of any agreement, instrument or document to which the Developer is a party or by which the Developer or its properties is bound. To the best of our knowledge after diligent inquiry, such execution, delivery and performance will not constitute grounds for acceleration of the maturity of any agreement, indenture, undertaking or other instrument to which the Developer is a party or by which it or any of its property may be bound, or result in the creation or imposition of (or the obligation to create or impose) any lien, charge or encumbrance on, or security interest in, any of its property pursuant to the provisions of any of the foregoing, other than liens or security interests in favor of the lender providing Lender Financing (as defined in the Agreement).

3. The execution and delivery of each Document and the performance of the transactions contemplated thereby have been duly authorized and approved by all requisite action on the part of the Developer.

4. Each of the Documents to which the Developer is a party has been duly executed and delivered by a duly authorized officer of the Developer, and each such Document constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms, except as limited by applicable bankruptcy, reorganization, insolvency or similar

laws affecting the enforcement of creditors' rights generally.

5. **Exhibit A** attached hereto (a) identifies each class of capital stock of the Developer, (b) sets forth the number of issued and authorized shares of each such class, and (c) identifies the record owners of shares of each class of capital stock of the Developer and the number of shares held of record by each such holder. To the best of our knowledge after diligent inquiry, except as set forth on **Exhibit A**, there are no warrants, options, rights or commitments of purchase, conversion, call or exchange or other rights or restrictions with respect to any of the capital stock of the Developer. Each outstanding share of the capital stock of the Developer is duly authorized, validly issued, fully paid and nonassessable.

6. To the best of our knowledge after diligent inquiry, no judgments are outstanding against the Developer, nor is there now pending or threatened, any litigation, contested claim or governmental proceeding by or against the Developer or affecting the Developer or its property, or seeking to restrain or enjoin the performance by the Developer of the Agreement or the transactions contemplated by the Agreement, or contesting the validity thereof. To the best of our knowledge after diligent inquiry, the Developer is not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in any respect under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse effect on the Developer or its business.

7. To the best of our knowledge after diligent inquiry, there is no default by the Developer or any other party under any material contract, lease, agreement, instrument or commitment to which the Developer is a party or by which the company or its properties is bound.

8. To the best of our knowledge after diligent inquiry, all of the assets of the Developer are free and clear of mortgages, liens, pledges, security interests and encumbrances except for those specifically set forth in the Documents.

9. The execution, delivery and performance of the Documents by the Developer have not and will not require the consent of any person or the giving of notice to, any exemption by, any registration, declaration or filing with or any taking of any other actions in respect of, any person, including without limitation any court, government or regulatory authority.

10. To the best of our knowledge after diligent inquiry, the Developer owns or possesses or is licensed or otherwise has the right to use all licenses, permits and other governmental approvals and authorizations, operating authorities, certificates of public convenience, goods carriers permits, authorizations and other rights that are necessary for the operation of its business.

11. A federal or state court sitting in the State of Illinois and applying the choice of law provisions of the State of Illinois would enforce the choice of law contained in the Documents and apply the law of the State of Illinois to the transactions evidenced thereby.

We are attorneys admitted to practice in the State of Illinois and we express no opinion as to any laws other than federal laws of the United States of America and the laws of the State of Illinois. **[Note: include a reference to the laws of the state of incorporation/organization of the Developer, if other than Illinois.]**

This opinion is issued at the Developer's request for the benefit of the City and its counsel, and may not be disclosed to or relied upon by any other person.

Very truly yours,

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_

**EXHIBIT K**

**Prior TIF Obligations in Canal/Congress TIF Area**

Redevelopment Agreement with Monroe Clinton LLC (Quaker Oats)

Redevelopment Agreement with US Fitness

Redevelopment Agreement with 550 W. Jackson

Redevelopment Agreement with USG



- The 10 individuals listed in the chart below are the 10 highest-paid Full Time Equivalent employees whose primary offices were located at the Developer Space during the year just ended:

Job Title of Employee	Number of months employed at Developer Space during the year	Paid from Developer Space? (Y or N)	Work hours total at least 35 per week? (Y or N)	Work hours total at least 1750 during the year (Y or N)	Independent contractor, third-party service provider, consultant, or ancillary services employee? (Y or N)

The Developer understands that, pursuant to the Agreement, HED has the right, at its option, to request and receive additional documentation reasonably evidencing the Developer's compliance with this certification.

All capitalized terms which are not defined herein have the meanings given such terms in the Agreement.

THE HILLSHIRE BRANDS COMPANY, a Maryland corporation

By: \_\_\_\_\_  
 Name  
 Title: \_\_\_\_\_

Subscribed and sworn before me this \_\_\_ day of \_\_\_\_\_  
 \_\_\_\_\_

My commission expires: \_\_\_\_\_



**EXHIBIT M**

**REQUISITION FORM**

STATE OF ILLINOIS )  
                          ) SS  
COUNTY OF COOK   )

The affiant, The Hillshire Brands Company, a Maryland corporation (the “**Developer**”), hereby certifies that with respect to that certain Hillshire Brands Company Redevelopment Agreement between the Developer and the City of Chicago dated \_\_\_\_\_, \_\_\_\_ (the “**Agreement**”):

A. Total expenditures for the Project, in the total amount of \$ \_\_\_\_\_, have been made to date.

B. This paragraph B sets forth and is a true and complete statement of all costs of TIF-Eligible Improvements for the Project reimbursed by the City to date:

\$ \_\_\_\_\_

C. The Developer hereby requests reimbursement for the following cost of TIF-Eligible Improvements (the \_\_\_\_\_th Payment):

\$ \_\_\_\_\_ [must match appropriate amount from Sec. 4.03(c) table]

D. None of the costs referenced in paragraph C above have been previously reimbursed by the City.

E. The Developer hereby certifies to the City that, as of the date hereof:

1. Except as described in the attached certificate, the representations and warranties contained in the Redevelopment Agreement are true and correct and the Developer is in compliance with all applicable covenants contained herein.

2. No Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default, exists or has occurred.

All capitalized terms which are not defined herein have the meanings given such terms in the Agreement.

THE HILLSHIRE BRANDS COMPANY, a Maryland corporation

By: \_\_\_\_\_  
Name  
Title: \_\_\_\_\_

Subscribed and sworn before me this \_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
My commission expires: \_\_\_\_\_

**Agreed and accepted:**

\_\_\_\_\_  
Name  
Title: \_\_\_\_\_  
City of Chicago  
Department of Housing and Economic Development

**EXHIBIT N**

**Form of Payment and Performance Bonds**

None, as there will be no work in the public way in connection with this Project